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### Security in the Strait of Malacca and the Regional Maritime Security Initiative: Responses to the US Proposal

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#### *Introduction*

**T**he Regional Maritime Security Initiative (RMSI), proposed in 2004 by Admiral Thomas B. Fargo, former commander of the US Pacific Command, is one of the American maritime security programs and initiatives designed to promote regional cooperation and improve maritime security in the East Asia and Pacific region, especially in the straits of Malacca and Singapore.<sup>1</sup> The main goal of RMSI is to develop a partnership of willing nations, working together under international and domestic law, to identify, monitor and intercept transnational maritime threats, in particular piracy, armed robbery and terrorist attacks at sea.<sup>2</sup> This initiative is now coordinated jointly by the US Pacific Command and the US Department of State.<sup>3</sup>

The Strait of Malacca, six hundred miles long and only one and a half miles wide at its narrowest point, is a confined stretch of water between Peninsular Malaysia and the Indonesian island of Sumatra. From an economic and strategic perspective, it is one of the most important shipping lanes in the world, the equivalent of the Suez Canal or Panama Canal. The Strait of Malacca forms the

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seaway connecting the Indian Ocean with the South China Sea and the Pacific Ocean, linking three of the world's most populous nations: India, Indonesia and China. Annually, approximately fifty thousand large vessels, and daily, an average of forty-five oil tankers, pass through the strait.<sup>4</sup> Daily, about six hundred cargo vessels carrying everything from Japanese nuclear waste bound for reprocessing facilities in Europe to raw materials for China's booming economy traverse the Strait of Malacca.<sup>5</sup> It is estimated that two-thirds of the world's liquefied natural gas (LNG);<sup>6</sup> between one-fifth and one-quarter of the world's sea trade; half of the global oil shipments carried by sea; and over 80 percent of the oil and gas imports of China, Japan, Taiwan and South Korea come through the Strait of Malacca. The number of ships passing through the strait is projected to increase due to the rapid economic growth of the countries in the Asia-Pacific region. It has been estimated that within the next twenty years two-thirds of China's petroleum imports will flow from the Middle East, most probably through the Strait of Malacca.<sup>7</sup> While two alternative waterways are available for international shipping (the Sunda Strait and the Lombok and Makassar straits through Indonesian archipelagic waters), if the Strait of Malacca was closed a detour through these alternative routes would add a significant amount of shipping time and cost.

In recent years the Strait of Malacca has increasingly become the target of piracy and armed robbery against vessels. This upsurge in the violence directed against shipping is not surprising given the high volume of transiting traffic, the geographical nature of the strait, the significant political and economic instability in the area, and the lack of resources and weak maritime law enforcement capacity of the littoral States. Since the September 11, 2001 terrorist attacks in the United States, increasing attention has been given to the threat of maritime terrorism, proliferation of weapons of mass destruction (WMD) and the security of the maritime transport sector in general. As a result of this changed strategic environment in the Strait of Malacca area, there has also been a growing conviction among the littoral States of the need to establish a burden-sharing arrangement, based on Article 43 of the 1982 United Nations Convention on the Law of the Sea (1982 LOS Convention).<sup>8</sup> Such an arrangement would be designed to help cover the gradually increasing cost of providing essential maritime infrastructure in the Strait of Malacca and, over the years, to keep the waters clear of pollution, safe for navigation, and free from the threat of pirate and terrorist attacks.

User States, especially China, Japan, South Korea and Taiwan, which are dependent on the strait for the smooth and efficient transit of cargo, in particular energy supplies, also raised concerns about the safety and security of their vessels and have demanded that enhanced security measures be taken by the States that border the Strait of Malacca.<sup>9</sup> Other user States that are among the major maritime powers,



such as the United States, also raised maritime security concerns regarding the potential threat of transnational crimes, maritime terrorism and armed attacks against their naval and commercial vessels traversing the strait. As a result, the maritime powers began to explore possible means of becoming involved more directly in the management of security matters in the Strait of Malacca. These efforts, however, were regarded by the littoral States as an attempt to “internationalize” the safety and security of the Strait of Malacca. In response, the littoral States reiterated their positions that enhancing safety and security and managing environmental issues in the strait are primarily their responsibility.

It is against this background that, when the idea of a RMSI was first introduced in Admiral Fargo’s speech to the US Congress on March 31, 2004, Indonesia and Malaysia strongly rejected the idea of patrols by foreign powers in the Strait of Malacca. The governments of these two nations also raised the concern that a US naval presence in the strait would actually attract terrorist attacks and bolster the appeal of extremists. However, Singapore, with its economy heavily dependent on global commercial traffic through the strait, sees piracy, armed robbery and maritime terrorism as major security threats, and therefore supported the RMSI, arguing that it is an intensive and complex task to safeguard the waterways against maritime terrorism and that no single State has the resources to deal effectively with the maritime security threat in the Strait of Malacca.

In response to the serious concerns of Indonesia and Malaysia, the American security initiative was modified to delete the original proposal to deploy US forces to conduct patrols in the strait. On the other hand, due in large measure to the prospect of foreign intervention in safeguarding the security of the Strait of Malacca, Indonesia, Malaysia and Singapore agreed to carry out coordinated sea and air patrols to curb piracy and armed robbery, and to increase maritime security. The decision of the Joint War Committee (JWC) of Lloyd’s Market Association in June 2005 to declare the Strait of Malacca a “war-risk and terrorist zone” also prompted the three littoral States to take a series of unilateral, bilateral and trilateral cooperative actions to improve the security environment of the Strait of Malacca.

Malaysia, for instance, announced that its armed police will be placed on board selected tug boats and barges traversing the Strait of Malacca. In addition, an escort service will be provided for vessels carrying valuable goods in the strait. Malaysia also declared that it will begin twenty-four-hour surveillance of the strait.<sup>10</sup> A new Malaysian Maritime Enforcement Agency (MMEA) was also established and began patrolling the Strait of Malacca in November 2005. Bilateral coordinated patrols between Malaysia and Indonesia, and between Indonesia and Singapore, have also been worked out to bring together their respective agencies involved in anti-piracy and anti-robbery activities. In July 2004, Indonesia,

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Malaysia and Singapore launched a new trilateral coordinated patrols initiative (*Malsindo*) in the Strait of Malacca, which was seen as another major response of the littoral States to the increasingly challenging issue of safety and security of the strait. In addition, in August 2005, the three littoral States agreed to implement joint air patrols over the Strait of Malacca in a bid to boost security in the waterway, which has been dubbed the “Eyes in the Sky” plan. In April 2006, Indonesia, Malaysia and Singapore signed an agreement to form a Joint Coordinating Committee on the Malacca Straits Patrols (MSP) and Standard Operational Procedures on Coordinated Patrols.<sup>11</sup>

The purpose of this article is to examine the development of the US-proposed RMSI and its influence on national and regional efforts being undertaken to enhance security in the Malacca strait and will focus, in particular, on the littoral States’ responses to the American security initiative. The paper first looks into the background of the introduction of the idea of RMSI by the US Pacific Command in March 2004; second, it provides an overview of the RMSI and the implementation of the initiative; third, it examines the preliminary national responses of the three States that border the Strait of Malacca to the US initiative; fourth, it summarizes the views of selected ocean law and maritime security experts on the legality, justification and political implications of the initiative; fifth, it addresses the steps taken by the littoral States unilaterally, bilaterally and multilaterally, between July 2004 and June 2006, to enhance security in the Strait of Malacca; sixth, it summarizes the important regional responses and efforts to help enhance security in the Malacca strait; seventh, it discusses the role played by existing mechanisms in the region in processes to help develop cooperative efforts to improve security in the strait; and finally, it offers the author’s observations regarding policy outcomes in terms of littoral States’ responses to the US-proposed RMSI and the challenges lying ahead for advancing maritime security in the Strait of Malacca.

#### ***Background for the Regional Maritime Security Initiative Concept***

The September 11, 2001 attacks and subsequent anthrax attacks in the United States profoundly changed the Bush administration’s strategic thinking on national security. This change was reflected in the National Security Strategy of the United States of America and the National Strategy to Combat Weapons of Mass Destruction, which were released by the White House in September 2002 and December 2002, respectively.<sup>12</sup> This new strategic thinking is defined by (1) the way in which the United States uses force in the post-9/11 world, (2) how the United States defines defense and (3) the way the United States approaches proliferation.<sup>13</sup> Under the new strategy, winning the war against terrorism and stopping



the proliferation of WMD have become priority missions of the American armed forces. In the maritime domain,<sup>14</sup> preventing terrorist attacks and criminal or hostile acts has also emerged as one of the key US policy objectives that guide the nation's maritime security activities.

In October 2000, terrorists in a boat laden with explosives carried out a suicide bombing of the *USS Cole (DDG 67)* in the harbor at Aden, Yemen. Seventeen US sailors were killed and over thirty others were wounded. The attack, organized by Osama bin Laden's al-Qaeda terrorist organization, was carried out by suicide bombers Ibrahim al-Thawr and Abdullah al-Misawa.<sup>15</sup> After the September 11th attacks, the United States became more concerned about potential terrorist attacks in the Strait of Malacca area, as demonstrated in late 2001 and early 2002 when US and Indian naval forces collaborated to protect American merchant shipping at the northern end of the strait.<sup>16</sup> The US perception of the maritime security threat in Southeast Asia and the Malacca strait was further reinforced in late 2002 and 2003 by three elements: (1) increasing concerns over the association of piracy with terrorist organizations in the region; (2) US and foreign security intelligence reports indicating that US-flag vessels, both civilian and military, could be attacked by terrorist groups when sailing through the strait or anchoring at ports; and (3) the increasing number of reports of pirate and maritime terrorist attack incidents that occurred in Southeast Asia and in the Strait of Malacca.

According to the available evidence obtained by the US Central Intelligence Agency (CIA) and other Western intelligence services, terrorist groups have already considered striking at maritime targets, particularly in the Strait of Malacca. The video tapes seized from the Indonesian terrorist group Jemaah Islamiyya (JI), which included footage of Malaysian maritime police patrols, indicate that this terrorist group was observing security procedures operating in the strait. Members of JI have been trained in seaborne guerrilla tactics, such as suicide diving capabilities and ramming. A basic diving manual recovered in Kandahar in Afghanistan was seen as further evidence of a larger plan to launch maritime attacks by the al-Qaeda networks and it is well known that JI has links with al-Qaeda.<sup>17</sup> It is believed that other terrorist groups in Southeast Asia, such as the Free Aceh Movement (also known as Gerakan Aceh Merdeka (GAM)), the Abu Sayyaf Group, the Moro Islamic Liberation Front (MILF) and the Moro National Liberation Front (MNLF), are also engaging in maritime piracy or terrorist attacks in the region. Following the arrests of several JI operatives in Singapore in December 2001, it was revealed that the terrorist group was plotting to blow up US warships docked at the Changi Naval Base in Singapore.<sup>18</sup> Warnings about terrorist groups' plans to seize US-flag vessels in the Strait of Malacca had also been issued by US intelligence services.<sup>19</sup>



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A number of reports on pirate and maritime terrorist attacks in late 2002 and 2003 also increased US concerns about possible attacks against its vessels transiting the waterways in the Strait of Malacca and Southeast Asia. In October 2002, the *MV Limburg*, a French oil tanker, was attacked by an explosive-laden boat.<sup>20</sup> The organizer of the attack was Abd al Rahman al Nashir, who was also believed to have been responsible for the attack on the *Cole*. The *Limburg* attack not only highlighted the vulnerability of cargo ships to terrorist attacks but also confirmed US concerns that it is not beyond the capabilities of terrorist groups to carry out assaults on maritime interests such as vessels and ports. In March 2003, the Indonesian chemical tanker *Dewi Madrim* was boarded by ten pirates from a speedboat in the congested southern reaches of the Strait of Malacca. The pirates were equipped with machine guns and machetes and carried VHF radios. Having disabled the tanker's communications and tied up the crew, the pirates took the helm and navigated the vessel for about an hour before departing with the master and first officer as hostages. According to a study by Aegis Defence Services, a London-based defense and security consultancy, the temporary hijacking of the *Dewi Madrim* was an attempt by terrorists to learn how to pilot a ship, and the kidnapping was aimed at acquiring expertise to help the terrorists mount a maritime attack. The *Dewi Madrim* attack was therefore considered the equivalent of the tactics of the al-Qaeda hijackers who perpetrated the September 11th attacks after going to a flight school in Florida.<sup>21</sup> Singapore's defense minister, Tony Tan, also stated that the *Dewi Madrim* incident and others like it were practice runs for a terrorist attack.<sup>22</sup> In February 2004, six al-Qaeda-linked Muslim militants of the Abu Sayyaf Group bombed *SuperFerry 14*, leaving over one hundred people dead. Philippine president Gloria Arroyo confirmed that the attack was the work of terrorists.<sup>23</sup> In addition to the maritime terrorist attacks, pirate attacks in the Strait of Malacca also increased from sixteen to twenty-eight in 2003 and from twenty-eight to thirty-seven in 2004.<sup>24</sup> According to the International Maritime Bureau's piracy reporting center, seventy of the 251 global reports of piratical attacks in the first nine months of 2004 occurred in the Strait of Malacca.<sup>25</sup>

The US Pacific Command is the headquarters responsible for all American air, ground and maritime military forces in the Asia-Pacific region. The Strait of Malacca and Southeast Asia are within the area of responsibility of this command, the mission of which is to promote security and peaceful development in the region by deterring aggression, advancing regional security cooperation, responding to crises, and fighting to win.<sup>26</sup> Since the September 11 attacks, prosecuting and winning the global war on terrorism has become one of the command's major focus areas. In response to the increasing maritime security threat in the Strait of



Malacca and Southeast Asia, as demonstrated above, the US Pacific Command developed the concept of RMSI.

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On March 31, 2004, in testimony before the House Armed Services Committee regarding US Pacific Command posture, Admiral Thomas B. Fargo, its commander, stated that despite notable successes in the war on terrorism, the United States remained deeply concerned about transnational threats from terrorist organizations such as al-Qaeda, JI and the Abu Sayyaf Group in the Asia-Pacific region. The United States sensed increasing synergy between transnational threats like terrorism, illicit drugs, trafficking in humans, piracy and especially WMD proliferation. To improve international cooperation against these transnational security threats, President George Bush launched the Proliferation Security Initiative (PSI) and the State Department proposed the Malacca Straits Initiative in 2003. To help operationalize these initiatives, the US Pacific Command introduced the concept of RMSI.<sup>27</sup> During the question and answer session at the same hearings, in response to the questions raised by Congressman Rick Larsen about RMSI and its relationship to the PSI, Admiral Fargo cited the lack of information and intelligence on the transnational maritime threat. The Admiral noted that there was widespread support for RMSI and stated:

I just came back from Singapore and had a very solid conversation with the “Sings” and they’re going to help us with this. My instinct, it probably ought to start at the Strait of [Malacca] and work its way out, because the Straits of [Malacca] are fundamental to the movement of all of the energy through the region. . . . We need to know who’s moving through the sea space. We need to know the status of ships. We need participation from the vast majority of them so that we can single out and cue on those that aren’t within the law.<sup>28</sup>

It was Admiral Fargo’s belief that RMSI would receive a very broad range of support from the countries in the region, including the three littoral States of the Malacca strait.<sup>29</sup>

As far as the means to implement the initiative are concerned—in particular, to carry out maritime interdiction operations in the Strait of Malacca—the Admiral indicated that

We’re looking at things like high-speed vessels, putting Special Operations Forces on high-speed vessels, putting, potentially, Marines on high-speed vessels so that we can use boats that might be incorporated with these vessels to conduct effective

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interdiction in . . . these sea lines of communications where terrorists are known to move about and transit throughout the region.<sup>30</sup>

This proposal later became the main reason two of the littoral States of the Malacca strait—Indonesia and Malaysia—rejected the idea of RMSI. In response to the strong reactions from the littoral States, US ambassador to Indonesia Ralph L. Boyce clarified the statement in Jakarta in April 2004, saying, “Admiral Fargo never said the US was going to send its marines or special forces to the Straits of Malacca. The AFP story . . . was misleading.”<sup>31</sup> The US embassy in Malaysia also made the same clarification, adding that the RMSI would be conducted within existing international laws.<sup>32</sup> Having clarified Admiral Fargo’s proposal, the US State Department continued to call on the nations in the Asia-Pacific region to work more closely to deal with the transnational threats, in particular, terrorism, piracy and other crimes, including drug trafficking and human trafficking. US deputy assistant secretary of state for East Asia Matthew Daley, for instance, warned at the Dialogue on Security in Asia, held in Singapore in April 2004, that “Asia’s waters are prime targets for Al-Qaeda and other terrorists” and “[w]hether we are talking about acts of piracy or terrorist attacks or even transnational problems, such as trafficking of persons or drugs, the terrorist aspect is not to be underestimated.”<sup>33</sup> Daley also stressed that the concern over the potential maritime terrorist attacks was not simply theoretical but was going to be an essential area of multilateral co-operation in the Asia-Pacific region in the months and years to come.<sup>34</sup>

In May 2004, Admiral Fargo further elaborated his idea of RMSI at the Military Operations and Law Conference held in Victoria, British Columbia, where he also emphasized the importance of conducting the initiative under existing international laws, including the laws of war and respect for national sovereignty. As he explained at the conference:

The goal of RMSI is to develop a partnership of willing regional nations with varying capabilities and capacities to identify, monitor, and intercept transnational maritime threats under existing international and domestic laws. This collective effort will empower each participating nation with the timely information and capabilities it needs to act against maritime threats in its own territorial seas. As always, each nation will have to decide for itself what response, if any, it will take in its own waters. Information sharing will also contribute to the security of international seas, creating an environment hostile to terrorism and other criminal activities. Any RMSI activity in international waters will, again, be in accordance with existing international law.<sup>35</sup>

There were five elements in the RMSI proposed by Admiral Fargo. These are (1) increased situational awareness and information sharing, (2) responsive



decision-making architectures, (3) maritime interdiction capabilities, (4) littoral security and (5) interagency cooperation. He also made it clear that RMSI is not a treaty or an alliance and that the initiative will not result in a standing naval force patrolling the Pacific. Admiral Fargo added that the initiative differs from the PSI in the sense that it is not a global effort, but will focus on maritime transnational threats in the Asia-Pacific region. Moreover, RMSI is not a challenge to sovereignty, and activities undertaken under the initiative will not violate existing international and domestic laws.<sup>36</sup>

In July 2004, the United States and the Philippines co-hosted the Maritime Threats Workshop held in Cebu in the Philippines. A major topic of the workshop was the US-proposed RMSI, which “emphasizes information sharing, providing cueing of emerging threats, contributing to the security of international seas, and most important, creating an environment hostile to terrorism and other criminal activities.”<sup>37</sup> It was stated that RMSI could empower each nation to take action it deems necessary to protect itself in its own waters, thereby enhancing the region’s collective security. While the participants agreed that RMSI could provide a plan of action to address the transnational maritime threats in the region, they also recommended the use of existing fora and international/regional programs that are appropriate to address RMSI objectives in order to avoid establishing additional mechanisms. The existing mechanisms include the Association of Southeast Asian Nations (ASEAN), the ASEAN Regional Forum (ARF) and the Asia-Pacific Economic Cooperation group (APEC).<sup>38</sup>

In November 2004, an overview of RMSI was provided on the website of the US Pacific Command, along with links to the US Pacific Command Strategy for Regional Maritime Security and other RMSI-related documents. These documents provide a more accurate understanding of RMSI, its strategic intent and status.<sup>39</sup> The Strategy for Regional Maritime Security stated clearly in its executive summary that RMSI “is designed to deny the use of the maritime domain by those who pose a threat to the Asia-Pacific region’s maritime security, including transnational terrorists and criminals.”<sup>40</sup> The nations participating in this initiative will utilize a cross-discipline, interagency approach to facilitate the development of regional maritime security capacities and conduct activities to establish and maintain a secure maritime environment. Implementation of RMSI will be accomplished by coordinating activities between the United States and the participating nations in the region that support the following common elements of maritime security: (1) increased situational awareness and information sharing; (2) responsive decision-making architectures; (3) enhanced maritime interception capacity; and (4) agency, ministerial and international cooperation.<sup>41</sup>



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According to the regional maritime security strategy, RMSI activities will be undertaken in the territorial waters of the participating nations and international waters of the Pacific and Indian oceans to counter “maritime threats” that include terrorism, maritime piracy, illegal trafficking (i.e., narcotics, weapons, human and illicit cargo) and other criminal activities in the maritime domain.<sup>42</sup> RMSI will be implemented through a cooperative effort, emphasizing interactions with the governments, international organizations and private sectors in the region, and will be based upon existing bilateral and multilateral arrangements. The international organizations dealing with maritime security issues in the region include, but are not limited to, ASEAN, ARF, ASEAN Security Community (ASC), APEC, Council for Security Cooperation in the Asia Pacific (CSCAP), International Maritime Bureau (IMB), North Pacific Heads of Coast Guard Agencies, United Nations International Maritime Organization (IMO) and the Western Pacific Naval Symposium (WPNS).<sup>43</sup>

The strategic intent of RMSI is to carry out the four common elements of maritime security mentioned earlier through cooperative efforts. Accordingly, the RMSI-participating nations will establish procedures, processes and standards to fuse information and the means to share the information; support the development of responsive decision-making architectures and regional maritime security capacity through agency, ministerial and international unity of effort; engage in appropriate fora to gain the requisite understanding of existing maritime security capacities; and develop cooperative arrangements to monitor, identify and intercept suspect vessels and transnational threats in territorial and international waters, consistent with international and domestic law. RMSI will also leverage appropriate elements of national and international resources and capabilities and will complement ongoing cooperative security activities such as bilateral and multilateral exercises, the Container Security Initiative (CSI), Counterdrug (CD) Operations, Customs-Trade Partnership Against Terrorism (C-TPAT), International Port Security Program (IPSP), International Ship and Port Facility Security (ISPS) Code, Maritime Domain Awareness (MDA), Multinational Planning Augmentation Team (MPAT), Proliferation Security Initiative (PSI), Regional Cooperation Agreement on Anti-Piracy (ReCAAP), and Secure Trade in the APEC Region (STAR).<sup>44</sup> Table 1 (below) illustrates security in the Asia-Pacific maritime continuum.

In December 2004, President Bush promulgated National Security Presidential Directive 41 and Homeland Security Presidential Directive 13 (NSPD-41/HSPD-13), which established US policy, guidelines and implementation actions to enhance US national interests and homeland security by protecting US maritime interests. The directives also established a Maritime Security Policy Coordinating Committee to coordinate interagency maritime security policy efforts. In recognition of the



importance of the maritime domain to US national security interests, and given the potential threat to US maritime security, the US government decided to

[D]eploy the full range of its operational assets and capabilities to prevent the Maritime Domain from being used by terrorists, criminals, and hostile States to commit acts of terrorism and criminal or other unlawful or hostile acts against the United States, its people, economy, property, territory, allies, and friends, while recognizing that maritime security policies are most effective when the strategic importance of international trade, economic cooperation, and the free flow of commerce are considered appropriately.<sup>45</sup>

It thus became US policy “to take all necessary and appropriate actions, consistent with U.S. law, treaties and other international agreements to which the United States is a party, and customary international law as determined for the United States by the President, to enhance security and protect U.S. interests in the Maritime Domain.”<sup>46</sup>

	PSI	MDA	CSI	RMSI	ISPS
<b>TITLE</b>	Proliferation Security Initiative	Maritime Domain Awareness	Container Security Initiative	Regional Maritime Security Initiative	International Ship & Port Facility Security Code
<b>US &amp; INTL. AGENCIES</b>	National Security Council US Department of State US Department of Defense	US Coast Guard  US Navy	US Department of Homeland Security– Customs & Border Protection (CBP)	US Department of State  USPACOM	United Nations  International Maritime Organization
<b>AREA</b>	Worldwide/Global	US & Territories	Worldwide/Global	Asia-Pacific Region	Worldwide/Global
<b>FOCUS</b>	Deter & disrupt WMD (& related material/delivery systems) proliferation transported on the sea, air & ground.  Reduce proliferation by deterring suppliers & customers, & making proliferation more costly & difficult.	Attain effective understanding of anything associated with the global maritime environment that could impact the security, safety, economy or environment of the US.	US-bound shipping cargo container safety.  Exchange program with CBP officers stationed in select ports.  About 7 million containers arriving in US ports annually.  90% of global trade via cargo containers.	Partnership of willing nations enhancing capabilities & leveraging capacities through unity of effort to identify, monitor & intercept transnational maritime threats consistent with existing international & domestic laws.	Provide a standardized, consistent framework for evaluating risk & enabling governments to offset changes in threats with changes in vulnerability for ships & port facilities.

**Table 1: Security in the Asia-Pacific Maritime Continuum**  
Source: US Pacific Command, RMSI: The Idea, The Facts<sup>47</sup>

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Accordingly, President Bush directed the secretaries of defense and homeland security to jointly lead a collaborative interagency effort to draft a recommended National Strategy for Maritime Security.<sup>48</sup> In concert with the development of the national strategy, the following actions were tasked: (1) Maritime Domain Awareness, (2) Global Maritime Intelligence Integration, (3) Domestic Outreach, (4) Coordination of International Efforts and International Outreach, (5) Maritime Threat Response, (6) Maritime Infrastructure Recovery, (7) Maritime Transportation System Security, and (8) Maritime Commerce Security.<sup>49</sup> While the term “Regional Maritime Security Initiative” was not found in the directive, it is clear that Admiral Fargo’s concept of RMSI had been incorporated into NSPD-41/HSPD-13.

In February 2005, Admiral William J. Fallon was nominated by President Bush and confirmed by the US Senate to succeed Admiral Fargo as the new Commander, US Pacific Command. Thereafter, RMSI continued to constitute an integral part of the command’s maritime security strategy. As reflected in Admiral Fallon’s remarks at the 4th Annual Shangri-La Dialogue held in Singapore in June 2005, the concept of RMSI remains very much alive. He noted that RMSI was launched by his predecessor and reiterated US Pacific Command’s concern over the maritime security threat in the Asia-Pacific region. He pointed out that because knowledge of activities in the sea space is incomplete, unseen threats can develop and therefore it is essential to develop close cooperation among nations and between maritime organizations, both State and non-governmental, in the region. In addition, with due respect for national sovereignty, Admiral Fallon suggested that organizational and operational issues should be priority items for agreement for the purpose of enhancing maritime security in the Asia-Pacific region.<sup>50</sup>

In September 2005, the National Strategy for Maritime Security<sup>51</sup> was issued by the White House, listing the following threats to US maritime security: (1) nation-State threats associated with terrorism and WMD attacks; (2) terrorist threats, in particular those associated with attacks by possible use of WMD and attacks at or from the sea; (3) transnational criminal and piracy threats; (4) environmental destruction; and (5) illegal seaborne immigration. The US perception of maritime terrorist threats is reflected in the following security assessment:

Terrorists can also develop effective attack capabilities relatively quickly using a variety of platforms, including explosives-laden suicide boats . . . and light aircraft; merchant and cruise ships as kinetic weapons to ram another vessel, warship, port facility, or offshore platform; commercial vessels as launch platforms for missile attacks; underwater swimmers to infiltrate ports; and unmanned underwater explosive delivery vehicles. Mines are also an effective weapon because they are low-cost, readily available, easily deployed, difficult to counter and require minimal training. Terrorists can also take advantage of a vessel’s legitimate cargo, such as chemicals, petroleum, or



liquefied natural gas, as the explosive component of an attack. Vessels can be used to transport powerful conventional explosives or WMD for detonation in a port or alongside an offshore facility.<sup>52</sup>

To achieve the objectives of the National Strategy for Maritime Security, the following five strategic actions are to be taken collectively by the United States, other willing nations and international organizations: (1) enhance international cooperation, (2) maximize domain awareness, (3) embed security into commercial practices, (4) deploy layered security and (5) assure continuity of the marine transportation system.<sup>53</sup> Specifically referring to the management of security in the Strait of Malacca, it is the policy of the United States to “use the agencies and components of the Federal Government in innovative ways to improve the security of sea-lanes that pass through international straits.”<sup>54</sup> The United States intends to work with its regional and international partners to expand maritime security efforts. Since regional maritime security regimes are a major international component of the US national strategy, and are essential for ensuring the effective security of regional seas, the United States is willing to work closely with other governments and international and regional organizations to enhance the maritime security capabilities of other key nations by adopting the following measures:

- Offering maritime and port security assistance, training and consultation;
- Coordinating and prioritizing maritime security assistance and liaison within regions;
- Allocating economic assistance to developing nations for maritime security to enhance security and prosperity;
- Promoting implementation of the Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation and its amendment and other international agreements; and
- Expanding the International Port Security and Maritime Liaison Officer programs, and the number of agency attachés.<sup>55</sup>

In addition to the National Strategy for Maritime Security, the relevant US departments and agencies have developed eight supporting plans to address the specific threats and challenges of the maritime environment, which include:

- The National Plan to Achieve Maritime Domain Awareness;<sup>56</sup>
- The Global Maritime Intelligence Integration Plan;<sup>57</sup>
- The Maritime Operational Threat Response Plan;<sup>58</sup>
- The International Outreach and Coordination Strategy;<sup>59</sup>
- The Maritime Infrastructure Recovery Plan;<sup>60</sup>

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- The Maritime Transportation System Security Recommendations;<sup>61</sup>
- The Maritime Commerce Security Plan;<sup>62</sup> and
- The Domestic Outreach Plan.<sup>63</sup>

In November 2005, the Department of State submitted the International Outreach and Coordination Strategy for the National Strategy for Maritime Security<sup>64</sup> to the White House. The strategy aims to advance the policies set by President Bush in the National Security Strategy,<sup>65</sup> the National Strategy for Homeland Security<sup>66</sup> and the National Strategy for Maritime Security and to help accomplish the president's vision of a fully coordinated US government effort to protect the nation's interests in the maritime domain. In order to achieve the strategic goals of the International Outreach and Coordination Strategy, the US Department of State works together with the US Pacific Command to implement RMSI. In February 2006, it was reported that the State Department has proposed a \$4.8 billion military aid budget for Fiscal Year 2007, in which \$2 million is allocated to RMSI.<sup>67</sup> On March 7, 2006, Admiral Fallon, in testimony before the Senate Armed Services Committee, stated that "[w]inning the war on terrorism is U.S. Pacific Command's highest priority" and that Southeast Asia remains the command's focal point in the war on terror.<sup>68</sup>

On February 15–17, 2006, the United States held a conference in Alameda, California to discuss ways and means to help coordinate potential donor contributions in maritime security efforts in the Malacca strait. Sponsored by the US Department of State and the US Coast Guard, this meeting was attended by the US Pacific Command, like-minded countries using the strait, the International Maritime Bureau (IMB), private sector representatives and other observers. The three littoral States of the Malacca strait—Indonesia, Malaysia and Singapore—were not invited to the conference. China was invited to the conference but did not attend. Taiwan was not invited because of sensitive political reasons.

The Alameda conference was an important initiative and was held under the IMO framework. However, in comparison with the news coverage on the US-proposed RMSI back in May 2004, surprisingly no reports on the Alameda conference were reported in the media, except an item in the *Defense News* regarding India's announcement during the conference that its maritime surveillance force would jointly patrol the Strait of Malacca with the United States,<sup>69</sup> a very brief report on the conference at the US Department of State's Fact Sheet on Maritime Security in the East Asian and Pacific Region,<sup>70</sup> and the commentary on the Institute of Defence and Strategic Studies website entitled "Burden Sharing in the Straits: Not So Straightforward" by Sam Bateman.<sup>71</sup> The latter commented that the Alameda conference appeared to pre-empt the initial task of the littoral States in identifying and prioritizing their



needs to enhance safety and security and manage environmental matters, and allocated a leading role to the user States of the Strait of Malacca. In addition, this meeting appeared to attach little significance to Article 43 of the 1982 LOS Convention<sup>72</sup> that has been the key focus of the littoral States over the past five years and the cornerstone of the IMO initiative that was discussed and agreed to at the Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection held in Jakarta, Indonesia in September 2005.

Before proceeding to the discussion of the littoral States' initial responses to the US-proposed RMSI, it is important to mention briefly a fact sheet provided by the US Department of State,<sup>73</sup> mainly because the document describes the US maritime security policy, especially in the Malacca strait area. According to this fact sheet, it is the US policy to seek to develop cooperative mechanisms to enhance the safety, security and environmental protection of strategic waterways in the East Asia and Pacific region, in particular the Strait of Malacca. The United States will work with like-minded countries and those littoral States responsible for safeguarding the important strategic waterways in the region. The fact sheet further provides that it is the common goal of the United States, like-minded nations and the littoral States bordering the strategic waterways "bilaterally and multilaterally, to develop a partnership of willing nations to enhance the overall capabilities and capacities to identify, monitor, and respond to maritime threats consistent with legal authorities and frameworks."<sup>74</sup>

Especially in the Strait of Malacca, the United States will work with global partners to ensure (1) recipient and user-State donor coordination based on the burden sharing of resources, (2) the interoperability of the partners' activities, (3) the sustainability of the joint strategies and (4) the prevention of redundancy among other maritime security efforts. Each of these four aims, as set forth in the fact sheet, must match both the priorities and needs of recipient States. The United States will work with responsible States, user States, multilateral organizations and private sector partners<sup>75</sup> on planning, capacity building, information sharing, International Ship and Port Facilities Security (ISPS) Code implementation, technical assistance, training and exercises, private sector outreach, maritime environmental stewardship and counterterrorism.

#### *Littoral States' Perceptions of the Regional Maritime Security Initiative*

It is clear that right before the US Pacific Command's announcement of the RMSI concept, Admiral Fargo had secured support for the initiative from the government of Singapore, as demonstrated in the question and answer portion of his testimony before the House Armed Services Committee on March 31, 2004. Admiral Fargo

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stated that “I just came back from Singapore and had a very solid conversation with the [Singaporeans] and they’re going to help us with [RMSI].”<sup>76</sup> The Admiral expected a very broad range of support for RMSI, mainly because “[a]ll of the countries in the region are concerned about the transnational threat,”<sup>77</sup> which includes terrorism, proliferation and the trafficking in humans. The initial reactions from the governments of Indonesia and Malaysia to the RMSI proposal in May and June 2004 proved that Admiral Fargo’s assessment of regional support for the initiative was incorrect, especially in regard to the notion of putting US Special Operations Forces or marines on high-speed vessels to conduct maritime interdiction in the Strait of Malacca. The three littoral States’ perceptions of, and initial reactions to, RMSI are examined below.

#### **Indonesia**

Shortly after the media’s disclosure of the US plan to deploy troops in the Strait of Malacca, Indonesia’s Ministry of Foreign Affairs issued a statement on the official position of the country in its opposition to the plan, arguing that Indonesia and Malaysia, in accordance with the 1982 LOS Convention, were solely responsible for guarding the Strait of Malacca.<sup>78</sup> Nugroho Wisnumurti, former director general for political affairs of Indonesia’s Ministry of Foreign Affairs, pointed out that

Fighting terrorism through regional cooperation in Southeast Asia, or any part of the globe for that matter, is something to be applauded. However, fighting terrorism in the Malacca and Singapore Straits by allowing the use of military force by any country other than the coastal states (Malaysia, Indonesia and Singapore) is another matter.<sup>79</sup>

Indonesian Navy Chief Admiral Bernard Kent Sondakh joined the opposition, calling the idea of sending special operations troops to the Strait of Malacca under RMSI “baseless.”<sup>80</sup> During the Second Indonesia–United States Security Dialogue, held in Washington, DC, April 22–23, 2004, the Indonesian delegation sought clarification regarding the US policy towards the Strait of Malacca. In response, the US delegation clarified the concept of RMSI and gave assurances that the United States would respect Indonesia’s sovereignty over its waters. The US delegation further agreed to continue to consult with Indonesia and other regional nations.<sup>81</sup>

In June 2004, when attending the 3rd Asian Security Conference (known as the “Shangri-La Dialogue”) in Singapore, US defense secretary Donald H. Rumsfeld told a group of Asian reporters that RMSI was an idea in its early stage and would not threaten sovereignty. The Secretary clarified that “[a]ny implications that it would impinge in any way on the sovereign territorial waters of some countries would be inaccurate.”<sup>82</sup> Admiral Walter F. Doran, the United States Pacific Fleet



commander, who accompanied Secretary Rumsfeld at the conference, also told reporters that Admiral Fargo's testimony did not imply that establishing new US bases and units or stationing elite forces in the region are part of RMSI. Admiral Doran pointed out that the main idea of the initiative was to build on normal navy-to-navy contacts and discussions to raise maritime situational awareness in the Asia-Pacific region.<sup>83</sup>

Despite the clarification made by high-ranking officials of the US government, including Admiral Fargo and Defense Secretary Rumsfeld, Indonesia's concerns over the possible intervention by foreign maritime powers, in particular the United States, in the management of the Strait of Malacca remained. As reported, Indonesia was displeased with joint naval patrols conducted by the navies of India and the United States for several months in 2003.<sup>84</sup> The reasoning behind this displeasure was Indonesia's worries about US involvement in a broader strategy that favored a permanent Indian presence in Southeast Asia, with the endorsement of Singapore.<sup>85</sup> According to another analysis, while the US government repeatedly stated that RMSI was still in its early stage and was mainly concerned with sharing information, rather than with deploying US troops in the Strait of Malacca, Indonesia continued to raise its objection to the US proposal, largely because of its long-standing policy of seeking regional solutions to regional security problems, and its government's need to appease a large, anti-American nationalist and Islamist domestic political audience. In addition, Indonesia perceived that the US proposal represented a challenge to regional self-management of security issues.<sup>86</sup>

### **Malaysia**

The government of Malaysia, taking the same position as that of Indonesia, objected strongly to the US idea of sending troops to help patrol in the Strait of Malacca under the proposed RMSI. Yab Dato Seri and Najib Tun Razak, Malaysia's deputy prime minister and defence minister respectively, stated in early April 2004 that "[i]n principle, ensuring the security of the Straits of Malacca is the responsibility of Malaysia and Indonesia and for the present we do not propose to invite the United States to join the security operations we have mounted there."<sup>87</sup> The defence minister continued, "[e]ven if they [the Americans] wished to act, they should get our permission, as this touches on the question of our national sovereignty."<sup>88</sup> Najib Razak denied that Malaysia and Indonesia needed help from non-littoral States to police the Malacca strait which, despite periodic raids by pirates on smaller cargo vessels, was generally safe for shipping. Moreover, he pointed out that while Malaysia maintained good relations with the United States, including joint military training, and that US vessels, including warships, were free to use the strait, to launch military operations in those waters the United States

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should first obtain permission from the governments of Malaysia and Indonesia.<sup>89</sup> Mohamed Nazri Abdul Aziz, a minister in Malaysia's Prime Minister's Department, warned that if the littoral States do not properly safeguard security in the Strait of Malacca, foreign powers may be prone to intervene in managing the security matters in the strait, which would pose a threat to Malaysia's sovereignty.<sup>90</sup>

In June 2004, while continuing to reject the notion of the sending of US troops to the Strait of Malacca, Malaysia agreed to discuss the issue of protecting the strait from piracy and potential terrorist attacks with the United States.<sup>91</sup> In the same month at the 3rd Shangri-La Dialogue, Malaysia again stressed its opposition to a US military presence in defending the Strait of Malacca and Southeast Asia from terrorist attacks but also agreed to the principles of sharing intelligence and blocking terrorists' financial and logistical networks. Najib Tun Razak reminded the participating defense ministers of Malaysia's concerns over the negative impact of a foreign military presence on security and political stability in the region, because it would "set us back in our ideological battle against extremism and militancy."<sup>92</sup>

The government of Malaysia was aware of Singapore's strong support for the US-proposed RMSI and accused Singapore of calling on foreign powers to intervene in security matters in the Strait of Malacca. Malaysia also disagreed with Singapore's security assessment with regard to the link between pirate attacks and maritime terrorism. Malaysia did not believe that the problem of piracy in the Strait of Malacca was critical; what occurred were only minor robberies, as pointed out by Rahim Husin, Malaysia's director of the Maritime Security Policy Directorate. In addition, Malaysia claimed that its law enforcement agencies were more than capable to ensure security in the strait without intervention from anyone.<sup>93</sup>

#### **Singapore**

Since the September 11 attacks, Singapore has been working closely with the United States to deal with the potential threats posed by terrorism and WMD proliferation. Similar to the actions taken by Japan, Singapore participates actively in US-led security initiatives, such as the CSI and PSI. In August 2005, Singapore hosted the multinational PSI interdiction training exercise, Deep Sabre, in the South China Sea. Singapore also signed a new framework agreement with the United States for a strategic cooperation partnership in defense and security. The agreement expands the scope of bilateral cooperation between the two nations in such areas as anti-terrorism, anti-proliferation of WMD, joint military exercises and training, policy dialogues, and defense technology.<sup>94</sup> Based on the close security relations between Singapore and the United States, it comes as no surprise to see Singapore expressing its strong support for the US-proposed RMSI. As stated



earlier, shortly before the announcement of RMSI, Admiral Fargo had talks with the government of Singapore and obtained its support for the initiative.<sup>95</sup>

In the area of managing security in the Strait of Malacca, Singapore complained frequently about the lack of political will to take effective actions and weak law enforcement capacities of the other States that border the Malacca strait to counter the threat posed by transnational crimes, such as piracy and armed robberies at sea. To enhance the safety and security in the strait, Singapore has been calling upon regional States and interested extra-regional powers to put pressure on the littoral States, in particular Indonesia. Singapore's perception of the maritime security threat has been greatly reinforced by the attacks on *Cole* in 2000, *Limburg* in 2002 and *Dewi Madrim* in 2003. It has become Singapore's major worry that pirate attacks might be linked to terrorist organizations that may launch terrorist attacks in the Malacca strait area.

Singapore's reactions to the US-proposed RMSI were first reflected in the statement made by its defence minister Teo Chee Hean in April 2004 that "the task of safeguarding the regional waters against maritime terrorism was complex and no single State had the resources to deal effectively with this threat."<sup>96</sup> In response to this statement, Malaysia's foreign minister Datuk Seri Syed Hamid pointed out that if Singapore had concerns about security in the Strait of Malacca, it should first discuss them with the littoral States of Malaysia and Indonesia.<sup>97</sup> In May 2004, deputy prime minister and coordinating minister for security and defence Tony Tan Keng Yam further elaborated Singapore's concerns over the threat of maritime terrorism in Southeast Asia and the lack of security in the Strait of Malacca. Tony Tan stated that "[t]he possible nexus between piracy and maritime terrorism is probably the greatest concern to maritime security."<sup>98</sup> To counter the threat posed by piracy and maritime terrorism, Singapore advocates a comprehensive approach that covers three overlapping domains, namely domestic, regional and international. Domestically, each country can tighten its port security by putting in place additional or enhanced measures. Regionally, the responsibility of the littoral States for the maritime security in the region must be recognized. At the same time, the littoral States should take unified and concerted action to enhance the security of strategic waterways. Internationally, key players, such as the United Nations, IMO and other nations that have a stake in the safety and security of international waterways, must be involved to protect important sea lines of communications (SLOC) against pirate attacks and maritime terrorism.<sup>99</sup>

At the 3rd Shangri-La Dialogue held in June 2004, Tony Tan reiterated Singapore's concern over potential maritime attacks, pointing out that a ship sunk in the right spot in the Strait of Malacca would cripple world trade. He also raised the possibility of hijacked ships being turned into "floating bombs" and crashed into

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critical infrastructure such as oil refineries or ports.<sup>100</sup> It was later reported that Singapore proposed the idea that US Marines help patrol the Strait of Malacca, which further reinforced the belief of Malaysia and Indonesia that Singapore was using the terrorist threat as a tool to justify the US presence in the region.<sup>101</sup>

#### ***Selected Ocean Law and Maritime Security Experts' Views on RMSI***

In addition to the initial reactions of the three littoral States to the US-proposed RMSI, there can also be found comments made by ocean law and maritime experts in the region on the legitimacy, implications and possible impact of the initiative, some of which are summarized below.

##### **Malaysian Ocean Law and Maritime Security Experts**

Mohd Zaki Mohd Salleh<sup>102</sup> viewed the US concept of sending its troops to the Strait of Malacca under RMSI as a political ploy by Singapore. If the United States were allowed to patrol the strait on grounds of security, he argued, it would indirectly mean that Malaysia and Indonesia had recognized the presence of a superpower in the region. Mohd Zaki expressed the opinion that Singapore was concerned about Malaysia's efforts to modernize its armed forces, which posed a threat to Singapore's sense of superiority in the region. To maintain that feeling of superiority, Singapore needed the US military presence in the Strait of Malacca and Southeast Asia. In addition, he did not believe that the problem of piracy in the region had reached a critical stage. The main reason for the sharp increase of pirate attacks in the Strait of Malacca area was, he argued, the economic slowdown in 1997–98.<sup>103</sup>

B.A. Hamzah<sup>104</sup> maintained that the idea of inviting the US Navy to patrol the Strait of Malacca had no legal basis. Hamzah argued that since the adoption of the 1982 LOS Convention, which introduced transit passage rights in straits used for international navigation, the littoral States' control over the Strait of Malacca has been effectively eroded, given the fact that Malaysia, Indonesia and Singapore had ratified, and were bound by the convention. However, while foreign ships and aircraft enjoy the right of transit passage through the straits, they must refrain from any threat or use of force against the sovereignty, territorial integrity and political independence of the States that border the strait. In particular, foreign ships and aircraft are prohibited from taking any military or non-military posture that can be construed by the littoral States as undermining their security. Hamzah elaborated that such posture includes naval patrols and training flights by foreign forces which are considered inconsistent with transit passage rights. Accordingly, both Malaysia and Indonesia were right in opposing the US proposal to send troops to patrol the Strait of Malacca. In short, in Hamzah's view, clearly there is no legal basis under



international law, especially the 1982 LOS Convention, for a third party to conduct enforcement action in strategic waterways, except when asked or permitted by the States bordering the strait concerned. He also rebutted the argument that the lack of effective enforcement capacity of the bordering States constitutes a justification for foreign intervention in managing security matters in the Strait of Malacca.<sup>105</sup> He said,

The idea of a maritime power putting undue pressure on the bordering countries to allow their navy to patrol the Straits of Malacca is ludicrous even if the bordering states had no adequate capabilities to undertake enforcement on their own. What is more, in this case, when both Indonesia and Malaysia have adequate military capabilities to deal effectively with the current level of maritime threats in the Straits of Malacca.<sup>106</sup>

Hamzah also questioned the real intention of the United States and Singapore in introducing the idea of sending naval forces to patrol the Strait of Malacca under RMSI, as he wrote: “[a]re the US and its ally looking for a new enemy in the region using the Straits of Malacca as a pretext? Or, are we witnessing the unfolding of a hidden agenda?”<sup>107</sup>

Mat Taib Yasin<sup>108</sup> offered five reasons to explain why both Malaysia and Indonesia rejected the US proposal of sending troops to help patrol the Malacca strait.<sup>109</sup> First, the two nations doubted the sincerity of the US offers. This doubt centered around the question of why US assistance would come only in the form of naval patrols since there are other ways and means to help the littoral States to enhance security in the strait. “Given that deployment of military forces is often construed as symbols of intervention and aggression . . . the Littoral States should be forgiven for harboring this doubt,” he stated.<sup>110</sup> The US proposal also reminded Malaysia and Indonesia of the past history of colonialism. Second, Malaysia and Indonesia opposed the US proposal because of the problem of legality. Under existing international law, in particular the 1982 LOS Convention, “there is no legal rationale for foreign powers to patrol the Straits unless or until requested by Littoral States.”<sup>111</sup> The third reason was the littoral States’ fear of “loss of command and control.” As demonstrated in the past, once foreign powers are in the strait, it is difficult to persuade them to leave. Fourth, the littoral States were concerned that the United States may resort to the use of excessive force as demonstrated in its global war against terrorism. And finally, Malaysia and Indonesia were concerned about the spillover effects of geopolitical rivalry between the major powers in the Strait of Malacca, which includes the US strategy to contain China by controlling China’s access to the strait.<sup>112</sup>

**American Maritime Security Expert**

Mark J. Valencia<sup>113</sup> viewed the dispute over the legitimacy of the US-proposed RMSI as a clash between the littoral States, which retain their sovereignty over the Strait of Malacca under the legal regimes of innocent passage and transit passage, and foreign maritime powers, which want passage of their naval and commercial vessels in the strait to be absolutely guaranteed. As the number of pirate attacks and the concern over the potential security threat posed by maritime terrorism in Southeast Asia, and especially in the Strait of Malacca area, continued to grow, the United States and other nations such as Japan and Australia began to advocate the right to intervene in the management of the strait. The intention to intervene was further reinforced by the worries that the littoral States—Malaysia and Indonesia—either did not have the will or capability to fulfill their responsibility to protect the strait. As a result, Singapore, the United States and other like-minded nations claim that it is the responsibility of the “international community” to intervene. However, Malaysia and Indonesia believed that the threat has been exaggerated for the purpose of justifying international intervention. To avoid unilateral and pre-emptive intervention led by the United States, the littoral States—Malaysia, Indonesia and Singapore—should act proactively. The only defense of the littoral States against the possibility of unilateral foreign intervention in the management of security matters in the Strait of Malacca is to agree to jointly patrol the strait and suppress piracy and the threat of terrorism there.<sup>114</sup>

**Chinese Maritime Security Expert**

Ji Guoxing<sup>115</sup> pointed out that China was concerned that the US-proposed RMSI will exceed transit passage rights and encroach upon the sovereignty and sovereign rights of the littoral States, in contravention of the 1982 LOS Convention.<sup>116</sup> Due to its rapid economic growth, China relies more on maritime transportation and oil imports, which makes it more important to ensure the security of SLOC. Around 60 percent of China’s oil imports come from the Middle East and must go through the Strait of Malacca. The strait has been closely linked with China’s economic and energy security. Accordingly, China is very much concerned about security in the Strait of Malacca and who is in control of the strait. Ji Guoxing pointed out that it is doubtful whether the US-proposed RMSI aims to block China’s energy channel and to contain China’s economic development. China’s policy is to support global anti-terrorism efforts, support the idea of enhancing security in the Strait of Malacca and participate in regional cooperation to guarantee SLOC security. It is also China’s hope that the United States and related nations could establish a terrorism prevention mechanism in the strait through consultative cooperation under the framework of the 1982 LOS Convention to safeguard the strait’s security.<sup>117</sup>



*Littoral States' Responses to RMSI: July 2004 to June 2006*

In response to the US-proposed anti-terrorism patrols in the Strait of Malacca under RMSI, and perceiving a foreign intervention in the management of security matters in the strait and a foreign military presence in the region to be a threat to their sovereignty, Malaysia and Indonesia began to take domestic measures and cooperate with Singapore to enhance security in the strait. In addition, they also began to seek US and other user States' involvement in their efforts to enhance security in the Malacca strait, mainly by providing training, logistic support, patrolling vessels, or technological and financial aids. International organizations, such as the IMO, and regional cooperative mechanisms such as ARF and APEC, were also called upon to provide help. The littoral States' political willingness to take more effective actions to improve security in the strait was further motivated by a decision of the Joint War Committee (JWC) of Lloyd's Market Association in June 2005, which declared the Strait of Malacca a "high-risk zone" and added it to its list of areas which are at risk to war, strikes, terrorism and related perils.<sup>118</sup> The littoral States were very much concerned over the JWC decision, mainly because it could result in higher insurance premiums for the ships that transit the strait or call at littoral States' ports, which, in turn, would hurt their economy. While repeatedly claiming that the JWC decision was not justified, the littoral States also realize that unless more effective action was taken to improve safety and security in the Strait of Malacca, the strait would not be removed from the JWC "high-risk zone" list. In this section, the national responses of the three littoral States of the Malacca strait to the US-proposed RMSI from July 2004 until June 2006 are examined.

**Domestic Actions Taken by Littoral States to Combat Maritime Crimes**

*Indonesia*

To improve its capacity to handle the security problems in the Strait of Malacca, Indonesia formed Navy Control Command Centers (Puskodal) in Batam and Belawan<sup>119</sup> and set up six regencies at the immediate borders of the Strait of Malacca and Strait of Singapore, namely, Rokan Hilir, Bengkalis, Siak, Palawan, Indragiri Ilir and Karimun, which are believed the most vulnerable and dangerous areas for pirate attacks.<sup>120</sup> The main purpose of setting up these regencies was to increase the people's welfare, alleviate poverty, and thus dissuade the local people from engaging in piratical activities. Tens of regencies along the straits of Malacca and Singapore and around the three chokepoints will be set up in the future.<sup>121</sup> In July 2005, an Indonesian maritime policy unit was established to help fight pirates and maintain Malacca security.<sup>122</sup>

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In September 2005, Indonesia decided to install radars at nine locations along the Strait of Malacca to strengthen security in the area and announced that the Integrated Maritime Security System (IMSS) in the strait will soon be introduced.<sup>123</sup> Given that most of the cases involving maritime crimes in Indonesia's conventional courts often produce problematic verdicts, which do not have the required deterrent effect, the government of Indonesia considered establishing maritime courts to try criminals operating in Indonesian waters.<sup>124</sup> Anti-piracy and anti-terror exercises were also being held to enhance security in the Strait of Malacca. For instance, in July 2005, the Indonesian Navy launched a three-month operation, named *Gurita* (Octopus) in a bid to fight rampant pirate attacks in the strait<sup>125</sup> and in March 2006, an anti-terrorism drill was held in the Strait of Malacca.<sup>126</sup>

#### *Malaysia*

The government of Malaysia has also adopted a number of domestic measures to deal with the maritime threat posed by piracy and armed robberies in the Strait of Malacca. In fact, some of these measures had been implemented before RMSI was announced in May 2004. For instance, in 2003, Malaysia erected a string of radar tracking stations along the Strait of Malacca to monitor traffic and acquired new patrol boats to combat piracy.<sup>127</sup> In 2004, the Royal Malaysian Navy intensified its training activities and patrols in the northern reaches of the Strait of Malacca beyond the one-fathom curve in an effort to combat piracy and maritime terrorism.<sup>128</sup> In April 2005, it was reported that the Malaysian Maritime Enforcement Agency (MMEA) would be formed to be responsible for patrols in the Strait of Malacca.<sup>129</sup> This new agency began patrolling the strait in December 2005.<sup>130</sup> Malaysian maritime police were also asked to increase anti-piracy operations and to help ensure the safety and security of the Strait of Malacca.<sup>131</sup> In February 2006, Malaysia announced its plan to step up anti-piracy patrols in the Strait of Malacca by adding up to fifteen new high-speed police boats and conducting joint maritime exercises with Indonesia, Thailand and Singapore.<sup>132</sup>

#### *Singapore*

When undertaking efforts to fight piracy and maritime terrorism, the government of Singapore encounters a dilemma of conflicting interests between protecting its shipping industries and stressing that maritime threats in the Strait of Malacca are real and therefore asking the littoral States to adopt more cooperative law enforcement measures to protect against pirate and maritime terrorist attacks. The basis for the JWC to declare the strait a high-risk zone was the security assessment done by its consultant, Aegis Defence Services. In August 2005, the JWC stated that the Strait of Malacca would remain on the "high-risk zone" list "until it was clear that



the measures planned by governments and other agencies in the area had been implemented and were effective.”<sup>133</sup> While taking note of shipping industry concerns over rising insurance costs, the government of Singapore has consistently emphasized the potential maritime security threat in the Strait of Malacca and asked cooperation from the other two littoral States to enhance security in the strait. A number of unilateral anti-piracy and anti-terrorism measures have also been taken by Singapore, such as deploying a fleet of remote-controlled vessels,<sup>134</sup> providing two Fokker planes for joint Malacca strait patrols,<sup>135</sup> deploying armed security teams on board selected merchant vessels entering and leaving its territorial waters,<sup>136</sup> and laying high-tech sonar arrays on the seabed across the Malacca strait.<sup>137</sup> More importantly, Singapore has been very active in pressing Malaysia and Indonesia to agree to a tripartite coordinated patrolling program in the strait and to the involvement of other ARF members and user States in the management of security matters in the Malacca strait.

In addition to the selected domestic anti-piracy and anti-terrorism measures as mentioned above, Malaysia, Indonesia and Singapore have also cooperated closely with the IMO by implementing amendments to Chapter XI-2 (Special Measures to Enhance Maritime Security) of the International Convention for the Safety of Life at Sea, in particular to the International Ships and Port Facility Security (ISPS) Code and to the Automatic Identification System (AIS).<sup>138</sup> Indonesia and Malaysia also held a special meeting in Jakarta in September 2005 to enhance security in the Strait of Malacca. Both joined the US Container Security Initiative, Indonesia in March 2003 and Malaysia in March 2004.

### **Bilateral Cooperative Programs in the Strait of Malacca**

#### *Between Littoral States*

In 1992, long before the announcement of the RMSI concept by the US Pacific Command, Indonesia and Singapore agreed to establish a bilateral program to patrol the Strait of Singapore, which involved the setting up of direct communication links between the navies and the relevant agencies of the two littoral States. Coordinated patrols under the program were carried out for three months in the strait.<sup>139</sup> In May 2005, the navies of both Indonesia and Singapore launched Project SURPIC, which is a sea surveillance system. Under the system, the two navies can share a common real-time sea situation picture of the Singapore strait.<sup>140</sup>

Similarly, bilateral cooperative efforts had also been made by Indonesia and Malaysia to help improve safety and security in the Strait of Malacca. In 1992, a Maritime Operation Planning Team was established by the two nations to coordinate their joint patrols in the strait, which are conducted four times a year and

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involve maritime institutions such as customs, search and rescue, and police.<sup>141</sup> Indonesia and Malaysia also carry out joint patrols in the Strait of Malacca under the agreed *Malindo* program. In November 2005, Malaysia and Singapore conducted a joint exercise, codename *Ex Malapura*, in the Malacca strait to promote security in the area, which was the seventeenth joint exercise between the two navies.<sup>142</sup> In April 2006, Malaysia and Indonesia held another joint aerial exercise, code-named *Elang Malindo XXII*.<sup>143</sup>

#### *Between Littoral States and User States*

Bilateral cooperative programs or agreements have also been concluded between the littoral States and user States of the Malacca strait, in particular, the United States. In July 2005, as mentioned earlier, a strategic framework agreement for a closer cooperation partnership in defense and security was signed between Singapore and the United States, in which the two nations agreed to work toward enhanced cooperation in the areas of anti-WMD, anti-terrorism, search and rescue and disaster management, intelligence exchange and defense technology.<sup>144</sup> While both Malaysia and Indonesia raised concerns over the US-Singapore Strategic Framework Agreement, in particular their perception that a strong US military presence in the region would constitute a potential threat to their sovereignty,<sup>145</sup> they are willing to improve their military relations with the United States. In 2004 and 2005, Indonesia and the United States held the second and third security dialogue respectively, in which the two countries exchanged views on a wide range of security and defense issues, including security in the Strait of Malacca.<sup>146</sup> In May 2005, joint anti-terrorism exercises between the United States and Indonesia were held at sea off Jakarta.<sup>147</sup> At the end of 2005, the United States offered to help Indonesia modernize its armed forces and provide technical assistance to support joint security operations in the Strait of Malacca by Indonesia, Malaysia and Singapore.<sup>148</sup> In January 2006, it was reported that Indonesia and the United States would re-evaluate their security cooperation following the lifting of the US arms embargo in November 2005, especially in dealing with terrorism and security in the Strait of Malacca and in Southeast Asia.<sup>149</sup> In the same month, the government of Indonesia submitted its request to the United States for technical support in the form of radar, sensors and improved patrol boat capability to secure the Strait of Malacca.<sup>150</sup> Indonesia's cooperation with the United States to fight terrorism and enhance security in the Malacca strait was also discussed during the visit of US secretary of state Condoleezza Rice to Jakarta in mid-March 2006.<sup>151</sup> Later that same month, Indonesia and the United States conducted a joint exercise on small craft counterterrorism maritime interdiction techniques.<sup>152</sup> During her visit to Indonesia in March 2006, Secretary Rice noted that maritime security is a top priority in



Southeast Asia, and that the United States is working with Indonesia and others to close the strait to drug smugglers and human traffickers, pirates and weapons proliferators.<sup>153</sup> \$1 million in aid was allocated to Indonesia to help that nation improve security in the Strait of Malacca, according to Admiral Fallon.<sup>154</sup> In April 2006, it was reported that the United States would soon provide Indonesia with an early warning system to support security maintenance in the Strait of Malacca. It will be installed at several points along Indonesia's territory on the waterway and on maritime patrol aircraft. In addition, the United States also promised to exchange intelligence information with the three littoral States on various matters relating to the situation and condition of the Malacca strait.<sup>155</sup> Indonesia also announced that discussions would be held with the United States at the fourth Indonesia–United States Security Dialogue in Washington on April 23–30, 2006 on issues relating to the security of the Strait of Malacca, anti-terrorism, bioterrorism and cyberterrorism, as well as the security of Southeast Asia generally.<sup>156</sup>

While differences over the question of securing the Strait of Malacca and the concern about an enhanced US military presence in the strait still exist, Malaysia also moved to consider accepting help from the United States to strengthen security in the strait through improved military relations between the two nations. In May 2005, for instance, Malaysia's deputy prime minister and defence minister Najib Razak discussed security in the Malacca strait with visiting US deputy secretary of state Robert Zoellick. During the visit, the Acquisition and Cross-Servicing Agreement (ACSA) was signed, which provides a framework for cooperation in military logistic matters between the two nations.<sup>157</sup> During his visit, Deputy Secretary Zoellick stated that the United States respects the role of the littoral States as the players with the responsibility for maritime security in the strait but at the same time is exploring ways to help Malaysia and Indonesia develop their capacities to deal with piracy and other crimes in the strait.<sup>158</sup> In February 2006, Deputy Prime Minister Najib Razak and Admiral Fallon held talks in Kuala Lumpur to discuss piracy and potential terrorist threats in the Strait of Malacca and the waters of Sabah.<sup>159</sup> In early June 2006, Defense Secretary Rumsfeld urged increased ties between the militaries of the United States and Indonesia during his Jakarta visit. He also discussed with Indonesian Defense Minister Juwono Sudarsono enhancing cooperation between the two nations in the fight against terrorism and the threat of piracy in the Strait of Malacca. They also discussed how the United States could provide military equipment to Indonesia to enhance Indonesia's military capability to eradicate piracy in the Malacca strait.<sup>160</sup>

In addition to the bilateral cooperation between the littoral States and the United States, cooperation has also been developed between the littoral States and other main user States of the Malacca strait, such as Japan. In March 2005, in



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response to a pirate attack against a Japanese-owned tugboat in the Strait of Malacca, Japan advised the littoral States of the strait that it was ready to send patrol vessels and aircraft to combat piracy. This offer was met with objections by both Malaysia and Indonesia.<sup>161</sup> In May 2005, Indonesia's navy chief of staff Admiral Slamet Soebijanto said that Indonesia welcomed any assistance from foreign nations in securing the Strait of Malacca, including from Japan, as long as it was not in the form of military force. In response, Japan sent a team to Indonesia tasked with studying what type of patrol ships Indonesia needed to deal with maritime crime in the strait.<sup>162</sup> In June 2005, during bilateral trade talks, Japan and Indonesia agreed to strengthen their cooperation to enhance the safety of navigation in the Strait of Malacca.<sup>163</sup> In July of that year, Indonesia announced that four patrol boats provided by Japan would carry out patrolling missions in the Malacca strait. In addition, Japan donated US\$50 million to Jakarta to help safeguard the waterways.<sup>164</sup> It was also reported in December 2005 that Japan and the three littoral States jointly drew up electronic sea charts of the Straits of Malacca and Singapore to help prevent accidents or piracy in the areas.<sup>165</sup> In February 2006 the government of Japan pledged again to grant technical aid consisting of detectors and patrol boats to protect the Malacca strait from possible terrorist attacks. Japan's Nippon Foundation also announced its decision to donate a patrol training vessel to Malaysia as part of ongoing efforts to reduce piracy and improve maritime security in the Strait of Malacca.<sup>166</sup> In June 2006, the Japanese government announced that it would donate three patrol boats to Indonesia to help fight terrorism and piracy.<sup>167</sup> In April 2006, Malaysian and Australian naval forces conducted a five-day exercise, code-named *Mastex*, in the Malacca strait.<sup>168</sup> In May 2006, Japan and Indonesia held intensive talks on security in the Malacca strait.<sup>169</sup>

#### **Tripartite Cooperative Patrolling Programs of the Littoral States**

It seems safe to point out that the most important development in terms of enhancing security in the Strait of Malacca is the establishment of routine sea and air patrols by the maritime security organizations of Indonesia, Malaysia and Singapore. As stated earlier, the main motivations for reaching the tripartite cooperative patrolling agreements among the three littoral States were the increasing demand from the user States and the international community for more effective law enforcement measures to deal with the problem of piracy and possible maritime terrorist attacks, the increasing concern of the littoral States over possible intervention of foreign powers by sending their troops to the area and the decision of Lloyd's JWC that declared the Strait of Malacca a war-risk area. In July 2004 Indonesia, Malaysia and Singapore launched a coordinated patrol program, known as the *Malsindo* Coordinated Patrol (MCP). Under the program, seven warships



from Indonesia, five from Malaysia and five from Singapore are deployed to maintain security in the Strait of Malacca. However, it should be noted that the warships of the participating nations are prohibited from carrying out patrolling activities in another participating nation's territorial waters.<sup>170</sup> In securing the Malacca strait under the MCP, control points have been set up in Belawan and Batam (Indonesia), Lumut (Malaysia) and Changi (Singapore). Another control point, Phuket (Thailand), will be set up when Thailand joins the "Eyes in the Sky" program.<sup>171</sup>

In addition to the tripartite coordinated sea patrol program, the three littoral States also reached agreement to begin air patrols over the Malacca strait to curb piracy and increase security in the strategic waterway under the "Eyes in the Sky" program. The initiative for multinational maritime air patrols was proposed by Malaysia's deputy prime minister and defence minister Najib Razak at the Shangri-La Dialogue held in June 2005.<sup>172</sup> Under the "Eyes in the Sky" program, each littoral State of the Malacca strait will provide two maritime aircraft per week to patrol the strait. The aircraft will only patrol the waterway and will not be allowed to fly over the land. While the maritime patrol aircraft would be allowed to fly above another participating nation's waters in the strait, they must fly no less than three nautical miles from that country's land. It was also agreed that each patrol aircraft will have a Combined Maritime Patrol Team (CMPT) on board, consisting of a military officer from each of the participating nations. The CMPT will establish a comprehensive surface picture over the patrol area. During the initiative stage for the implementation of the maritime air patrol program, only the three littoral States and Thailand can participate. But the implementation of the second phase of the "Eyes in the Sky" program could involve participation by extra-regional nations, such as the United States, subject to the principle that the sovereignty of the littoral States must be respected.<sup>173</sup> Although the "Eyes in the Sky" program was launched in September 2005, it was not until April 2006 that the three littoral States signed an agreement on the formation of a joint coordinating committee on the Malacca Straits Patrols (MSP) and Standard Operational Procedures on Coordinated Patrols.<sup>174</sup> Under the agreement, cross-border hot pursuit cannot be carried out without prior arrangements between the littoral States. While Singapore and Indonesia, as well as Malaysia and Indonesia, have bilateral agreements allowing for cross-border hot pursuit, Singapore and Malaysia have no such agreement and must seek permission before entering each other's territorial waters. It was pointed out that the tripartite patrol agreement is an "open arrangement with opportunities for the international community to participate," but only with the consent of Indonesia, Malaysia and Singapore.<sup>175</sup> In June 2006, at the 5th Shangri-La Dialogue, held in Singapore, both India and Japan expressed their willingness to assist the littoral States in patrolling the Strait of Malacca.<sup>176</sup>

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### *Regional Responses and Efforts in Helping Improve Security in the Malacca Strait*

#### **Regional Maritime Security Discussion in the Shangri-La Dialogue**

Maritime security in the Strait of Malacca has become one of the important issues discussed at the Asian Security Conference, organized by the International Institute for Strategic Studies and dubbed the “Shangri-La Dialogue.” At the 3rd Shangri-La Dialogue, held in Singapore in June 2004, the US-proposed RMSI and the concept of sending American troops to help patrol the Strait of Malacca were heatedly discussed. Malaysia opposed strongly an enhanced US military presence in defending the strait and Southeast Asia from terrorists but agreed to the principles of shared intelligence and blocking terrorists’ financial and logistical networks. US defense secretary Donald Rumsfeld, in his speech at the same meeting, described the global war on terrorism as a battle against ideological extremism and stressed the need to cooperate and share intelligence to fight terrorism effectively. At the same time, he sought to ease fears among the Southeast Asian nations, particularly Malaysia and Indonesia, that RMSI might encroach on their sovereignty. The secretary clarified that the initiative was still in its infancy and that “[a]ny implications that it would impinge in any way on the territorial waters of some countries would be inaccurate.”<sup>177</sup>

The American-proposed RMSI and the possible involvement of foreign powers in the management of security in the Strait of Malacca were continuously discussed at the 4th Shangri-La Dialogue in June 2005. At the conference, the participating defense ministers agreed that regional maritime security, particularly in the Strait of Malacca, was a matter of common concern in the region. A consensus was reached based on three broad principles: (1) the littoral States must shoulder the primary responsibility for the security of regional waterways, (2) the user States and the international community have a significant role to play and (3) new cooperative measures should be forged in a manner that was respectful of sovereignty and consistent with international law. Nations in the region recognized the need to enhance practical forms of maritime security cooperation in accordance with these principles.<sup>178</sup> In June 2006, the participating defense ministers at the 5th Shangri-La Dialogue discussed ways to advance maritime security cooperation. However, the discussions were strictly off the record.<sup>179</sup> It seems clear that both the littoral States and user States (particularly the United States) of the Malacca strait are adopting an approach of closed door consultations and collaboration to enhance maritime security in the Strait of Malacca.



**Tripartite Ministerial Meeting of the Littoral States on the Malacca and Singapore Straits**

In August 2005, ministers of foreign affairs of the three littoral States met in Batam, Indonesia to discuss matters relating to the safety of navigation, maritime security and environmental protection in the straits of Malacca and Singapore.<sup>180</sup> A Joint Statement was issued after the meeting, in which the three nations reaffirmed their sovereignty and sovereign rights over the Malacca and Singapore straits, which are defined under the 1982 LOS Convention as straits used for international navigation. The ministers stressed that the main responsibility for the safety, security and environmental protection in the straits lies with the littoral States. The ministers emphasized that measures undertaken in the straits in the future should be in accordance with international law, including the 1982 LOS Convention. It is based on this understanding that the three littoral States acknowledged the interest of user States and relevant international agencies and the role they could play in respect to the straits. Moreover, in recognition of the importance of engaging the States bordering the funnels leading to the Malacca and Singapore straits and the major users of the straits, the three littoral States supported continuing discussion on the overall subject of maritime security in the Southeast Asia region within the framework of ASEAN and ARF. They also acknowledged the good work carried out by the Tripartite Technical Experts Group (TTEG) on Safety of Navigation in the straits of Malacca and Singapore and recognized the efforts of the Revolving Fund Committee (RFC) in dealing with issues of environmental protection in the straits.<sup>181</sup>

The ministers recognized the importance of the Tripartite Ministerial Meeting on the straits of Malacca and Singapore in providing the overall framework for co-operation among them and supported the convening of the chiefs of defence forces of Malaysia, Indonesia, Singapore and Thailand Informal Meeting in Kuala Lumpur on August 1–2, 2005. More importantly, the ministers agreed to address the issue of maritime security comprehensively, which includes trans-boundary crimes such as piracy, armed robbery and terrorism. They also perceived the need to address the issue of trafficking in persons, smuggling of people and weapons, and other trans-boundary crimes through appropriate mechanisms. In recognition of the interest of others in maintaining the safety of navigation, maritime security and environmental protection in the straits, the ministers welcomed the assistance of the user States, relevant international agencies and the shipping community in the areas of capacity building, training and technology transfer, and other forms of assistance, provided that the main responsibility of the littoral States in managing the straits is respected and that the assistance is offered in accordance with the 1982 LOS Convention. The ministers expressed their displeasure with the decision of the Joint War Committee of Lloyd's Market Association that declared

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the straits of Malacca and Singapore a high-risk zone for piracy and terrorism without consulting with the littoral States and taking into account the existing anti-piracy and anti-terrorism measures undertaken by them. Finally, the ministers welcomed a special meeting on enhancing safety, security and environmental protection in the Malacca and Singapore straits to be held in Jakarta in September 2005.<sup>182</sup>

#### **IMO Jakarta Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection**

Due to a genuine concern over possible terrorist attacks in the Strait of Malacca, the IMO Council decided in November 2004 to convene a high-level conference to consider ways and means of enhancing safety, security and environmental protection in the straits.<sup>183</sup> Accordingly, the IMO Jakarta Meeting on the Straits of Malacca and Singapore: Enhancing Safety, Security and Environmental Protection was held in September 2005. At the conference, Mr. Efthimios Mitropoulos, secretary-general of the IMO, pointed out in his opening remarks that

[w]ith regard to the question of security versus sovereignty (or vice versa), while I can understand and fully respect the sensitivity of any State over the issue, I also believe that, whilst States have the right of non-interference in their internal affairs, they also have concurrent responsibilities towards their own people, the international community and their international engagements. Whatever the answer to this, there can be no excuse for inactivity, whether the danger is clear and present or perceived as a future possibility.<sup>184</sup>

Accordingly, the secretary-general called on the three littoral States bordering the straits of Malacca and Singapore, user States of the straits, industry and all other stakeholders to work together to produce an outcome conducive to building confidence in any efforts undertaken jointly to enhance safety, security and environmental protection in the straits. The secretary-general also made it clear that any action undertaken in the future should be based on the consent, support and cooperation of the littoral States concerned, which should be invited to play a principal role in all developments. In addition, any action undertaken must be consistent with international law, including the relevant provisions of the 1982 LOS Convention.<sup>185</sup> The meeting produced the Jakarta Statement,

which emphasizes the need to balance the interest of the littoral States and the user States while respecting the littoral States' sovereignty, and to establish a mechanism to facilitate cooperation between them to discuss issues relating to the safety, security and environmental protection of the Straits of Malacca and Singapore, including exploring possible options for burden sharing.<sup>186</sup>



For the purpose of enhancing the safety, security and environmental protection of the Malacca and Singapore straits, the thirty-four nations participating in the meeting agreed

- that the work of the Tripartite Technical Experts Group (TTEG) on Safety of Navigation in enhancing the safety of navigation and in protecting the marine environment in the Straits, including the efforts of the TTEG in relation to the implementation of Article 43 of the 1982 LOS Convention in the Straits, should continue to be supported and encouraged;
- that a mechanism be established by the three littoral States to meet, on a regular basis, with user States, the shipping industry and others with an interest in safe navigation through the Straits, to discuss issues relating to the safety, security and environmental protection of the Straits, as well as to facilitate cooperation in keeping the Straits safe and open to navigation, including exploring the possible options for burden sharing, and to keep the IMO informed, as appropriate, of the outcome of such meetings;
- that efforts should be made through the three littoral States to establish and enhance mechanisms for information exchange within and between States, building, where possible, on existing arrangements, such as TTEG mechanisms, so as to enhance maritime domain awareness in the Straits and thus contribute to the enhancement of co-operative measures in the areas of safety, security and environmental protection; and
- to promote, build upon and expand co-operative and operational arrangements of the three littoral States, including the Tripartite Technical Expert Group on Maritime Security, coordinated maritime patrols in the Straits through, *inter alia*, maritime security training programs and other forms of cooperation, such as maritime exercises, with a view to further strengthening capacity building in the littoral States to address security threats to shipping.<sup>187</sup>

The IMO has also been invited to consider, in consultation with the littoral States, convening a series of follow-on meetings for the littoral States to identify and prioritize their needs, and for user States to identify possible assistance to respond to those needs, which may include information exchange, capacity building, training and technical support, with a view to promote and coordinate cooperative measures.<sup>188</sup> A Memorandum of Understanding (MOU) by and among the governments of the three littoral States and IMO for the implementation of a regional Marine Electronic Highway (MEH) demonstration project in the straits of Malacca and Singapore (MEH MOU) and a Memorandum on Arrangements by and among the three littoral States, IMO, International Hydrographic Organization (IHO), International Association of Independent Tanker

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Owners (INTERTANKO) and International Chamber of Shipping (ICS) to implement specific activities of Article 4 of the MEH MOU were signed.<sup>189</sup> Also at the meeting, China, South Korea and Norway were encouraged to join Japan in making financial contributions to the Malacca Straits Council. Over the past thirty-five years or so, the Nippon Foundation of Japan had contributed more than US\$100 million to the council.<sup>190</sup>

#### **Tokyo Ministerial Conference on International Transport Security**

In January 2006, the Ministerial Conference on International Transport Security was held in Tokyo, attended by the transport ministers of the G-8 members and six Asian nations, namely, Australia, China, Indonesia, Malaysia, Singapore and South Korea. The purpose of this conference was to discuss international transport security issues. A ministerial declaration and three ministerial statements on security in the international maritime transport sector, aviation security and land transport security were adopted by the conference. The Ministerial Statement on Security in the International Maritime Transport Sector stressed the importance of ensuring continued compliance with the provisions of Chapter XI-2 of the 1974 International Convention for the Safety of Life at Sea (SOLAS Convention) and the ISPS Code, which were adopted in December 2002 and entered into force in July 2004.<sup>191</sup>

The participants in the conference welcomed the adoption of the 2005 Protocol to the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation (SUA Convention), and the 2005 Protocol to the 1988 Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf. Among the unlawful acts covered by the 1988 SUA Convention in Article 3 are the seizure of ships by force, acts of violence against persons on board ships and the placing of devices on board a ship which are likely to destroy or damage it.<sup>192</sup> In addition, the IMO was invited by the transport ministers

[t]o consider, in cooperation with WCO [World Customs Organization], the development and adoption, as necessary, of appropriate measures to enhance the security of the maritime transport of containers in the international supply chain, while respecting efficiency and international harmonization;

to undertake a study and make, as necessary, recommendations to enhance the security of ships other than those already covered by SOLAS chapter XI-2 and the ISPS Code, in an effort to protect them from becoming targets of acts of terrorism, piracy, or armed robbery and to prevent them from being exploited or used as means for committing such acts.<sup>193</sup>



In May 2006, the IMO announced that parties to the SOLAS Convention had given initial acceptance to new security measures, which require ships to be tracked by satellite to fight terrorism and to prevent the introduction of WMD into the supply chain. Under the new Long-Range Identification and Tracking (LRIT) regulation, which is expected to become effective in January 2008, merchant ships will be required to transmit information about their identity, location and date and time of their position through satellite-based technology.<sup>194</sup> The new regulation on LRIT is included in the 1974 SOLAS Convention's Chapter V on Safety of Navigation, through which LRIT is introduced as a mandatory requirement for passenger ships, including high-speed craft and cargo ships of three-hundred gross tonnage and upwards, as well as mobile offshore drilling units on international voyages.<sup>195</sup>

**The Plan to Establish the ReCAAP Information Sharing Center**

To help enhance safety and security in the Strait of Malacca, Japan launched an initiative in 2001, aiming to set up an anti-piracy cooperative framework among ASEAN countries, China, Japan, South Korea, India, Sri Lanka and Bangladesh. As a result, the Regional Cooperation Agreement on Combating Piracy and Armed Robbery Against Ships in Asia (ReCAAP) was concluded in Tokyo in November 2004.<sup>196</sup> The agreement was opened for signature by Bangladesh, Brunei, Cambodia, China, India, Indonesia, Japan, Laos, Malaysia, Myanmar, the Philippines, South Korea, Sri Lanka, Thailand and Vietnam, and enters into force ninety days after the date on which the tenth instrument of notification by a State mentioned above, indicating the completion of its domestic requirements, is submitted to the government of Singapore, the depository of the agreement.<sup>197</sup> As of June 2006, twelve nations<sup>198</sup> had signed, and with the exception of Brunei, had ratified the ReCAAP agreement, which entered into force on September 4, 2006.<sup>199</sup>

A key pillar of the ReCAAP is the Information Sharing Center (ISC), which will be established in accordance with Part II of the agreement. The ISC, located in Singapore, is an international organization with major functions of facilitating communication and information exchanges between the member nations and improving the quality of statistics and reports on piracy and armed robbery against ships in the region. It was reported that one of the major reasons for the failure of Malaysia and Indonesia to sign the agreement to date was their displeasure with the decision to set up the ISC in Singapore. However, it should be noted that it was mentioned in the Batam Agreement that Malaysia and Indonesia "take note of" the ISC, and agreed to cooperate with the center.<sup>200</sup>

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### *The Role of Existing Regional Mechanisms Promoting Maritime Security Cooperation*

#### **ASEAN and ARF**

Cooperative measures to deal with the problem of piracy and maritime security threats among member States of the ASEAN<sup>201</sup> and participating nations in the ASEAN Regional Forum (ARF)<sup>202</sup> had been sought long before the announcement of RMSI by the US Pacific Command in May of 2004. As early as November 2001 ASEAN adopted a declaration on joint action to counter terrorism.<sup>203</sup> In May 2002 a special ASEAN ministerial meeting on terrorism was held in Kuala Lumpur in which a joint communiqué on terrorism and the Work Program to Implement the ASEAN Action Plan to Combat Transnational Crimes were adopted.<sup>204</sup> In August 2002, the United States and ASEAN, and in January 2003 the European Union and ASEAN, issued joint declarations of cooperation to combat international terrorism.<sup>205</sup> All member States of ASEAN, including the three littoral States of the Strait of Malacca, were called upon to solidify governmental efforts in areas of information exchange, training, legislation, law enforcement, institution building and extra-regional cooperation. In December 2003, the ASEAN-Japan Seminar on Maritime Security and Combating Piracy was held in Tokyo. This was followed by another ASEAN-US Workshop on Enhancing Maritime Anti-piracy and Counter-terrorism Cooperation in the ASEAN Region held in Manila in April 2004.<sup>206</sup>

On May 9, 2006, the first ASEAN defense ministers meeting was held in Kuala Lumpur, at which the issues of human security and transnational crimes such as terrorism, piracy, trafficking, smuggling and cooperation for disaster relief were discussed. To deal with these issues, considered as ASEAN's immediate security challenges, the ministers agreed

- to promote regional peace and stability through dialogue and cooperation in defense and security;
- to give guidance to existing senior defense and military officials' dialogue and cooperation in the field of defense and security within ASEAN and with dialogue partners;
- to promote mutual trust and confidence through greater understanding of defense policies and threat perceptions, security challenges as well as enhancement of transparency and openness; and
- to contribute to the establishment of the ASEAN Security Community as stipulated in the Bali Concord II and to promote the implementation of the Vientiane Action Programme.<sup>207</sup>



As far as efforts undertaken by the participating nations of ARF are concerned, in June 2003 the Statement on Cooperation Against Piracy and Other Threats to Maritime Safety was adopted at the tenth ARF meeting.<sup>208</sup> In the statement, the participating States and organizations recognized that “[p]iracy and armed robbery against ships and the potential for terrorist attacks on vulnerable sea shipping threaten the growth of the Asia-Pacific region, and disrupt the stability of global commerce, particularly as these have become tools of transnational organized crime.”<sup>209</sup> They also recognized that “[m]aritime security is an indispensable and fundamental condition for the welfare and economic security of the ARF region” and that “[e]nsuring this security is in the direct interest of all countries, and in particular the ARF countries.”<sup>210</sup> They promised to achieve effective implementation of relevant international maritime instruments that aim to enhance the safety and security of shipping and port operations. The relevant instruments include the 1982 LOS Convention, the 1988 SUA and its Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, the 1974 SOLAS Convention and the relevant amendments to that convention, and the ISPS Code. ARF member nations are encouraged to become parties to the relevant international maritime conventions, if they had not yet done so.<sup>211</sup> At the 11th ARF meeting, held in July 2004, the participating ministers affirmed that “terrorism, irrespective of its origins, motivations or objectives, constitutes a threat to all peoples and countries, and to the common interest in ensuring peace, stability, security and economic prosperity in the region and beyond.”<sup>212</sup> They also adopted the ARF Statement on Strengthening Transport Security against International Terrorism, which expressed the determination of the ARF participants to take concrete and cooperative measures in safeguarding their means of transportation from terrorist threats.<sup>213</sup>

In September 2004 the ARF Workshop on Maritime Security was held in Kuala Lumpur, Malaysia. During the discussion, the participants identified piracy, transnational organized crimes (such as smuggling) and terrorist activities as major threats to maritime security.<sup>214</sup> They concurred that there was no single nation that could handle maritime security alone and therefore cooperation, based on international law, is a must to manage maritime security effectively. In the context of the Malacca strait, the participants welcomed the coordinated sea patrols among Indonesia, Malaysia and Singapore, and other bilateral cooperation with India, noting that this was in line with the primary responsibility of the three littoral States of the straits of Malacca and Singapore. They also noted that the proposed Maritime Electronic Highway to be applied in the straits could enhance the transparency of navigation and overall traffic control and also provide the basis for intensive monitoring of the real-time navigational situation.<sup>215</sup> During the discussion on the way



to enhance cooperation on maritime security, the participants recognized that collective effort is vital to address maritime security threats. However, the collective effort should be undertaken on the basis of mutual respect for sovereignty, territorial integrity and in accordance with the UN Charter and other recognized international law. The use of bilateral and regional agreements was believed to be a useful method to enhance maritime security. It was also pointed out that there is need for comprehensive action, including enhancing cooperation on fighting piracy and armed robbery in the region between ARF participants' shipping and international organizations. The meeting was divided into three breakout sessions to further discuss the issue of maritime security. Breakout Session I (Managing Maritime Challenges and Threats) highlighted the need to establish intergovernmental agreements, such as standard operating procedures, and to develop a regional contingency plan where and when possible and appropriate.<sup>216</sup> Breakout Session III (Enhancing Cooperation on Maritime Security) identified four areas for enhancing cooperation on maritime security, namely, cooperative frameworks; common understanding of threats; information exchange mechanisms, policies and procedures; and national capacities.<sup>217</sup>

In March 2005 Singapore and the United States co-hosted a meeting on an ARF Confidence Building Measure (CBM) on Regional Cooperation in Maritime Security in Singapore. In his speech at the meeting, Singapore's Defence Minister Teo Chee Hean urged that "[i]t would be useful for the ARF to move beyond dialogue on maritime security and work towards conducting an ARF maritime security exercise in the near future."<sup>218</sup> During the discussion at the meeting, some participants suggested that maritime security cooperation in the region should be formulated in accordance with the following three broad principles: (1) the primary responsibility for the safety and security of key waterways like the Malacca and Singapore straits should lay with the littoral States; (2) due to the multiplicity of stakeholders, and the complexity of the task at hand, there should be a role for all stakeholders, including interested nations, international organizations like the IMO, the shipping community and even multinational organizations; and (3) the cooperative effort should proceed on the basis of consultation and in accordance with international law.<sup>219</sup> Meeting participants agreed that ARF should play an important role in forging regional cooperation in maritime security, given that its wide membership encompasses the key stakeholders in regional maritime security.<sup>220</sup> In July 2005, at the 12th ARF meeting, the participating ministers welcomed ARF's sustained efforts in promoting maritime safety and security and noted the following four areas for future cooperation: multilateral cooperation, operational solutions to maritime safety and security, shipping and port security, and application of technology for maritime safety and security.<sup>221</sup> They also adopted the ARF Statement



on Information Sharing and Intelligence Exchange and Document Integrity and Security in Enhancing Cooperation to Combat Terrorism and Other Transnational Crimes.<sup>222</sup> The establishment of a Regional Marine Training Centre had also been discussed at the ARF workshops and the ARF Senior Officers Meeting.<sup>223</sup>

#### **Council for Security Cooperation in the Asia Pacific**

The Council for Security Cooperation in the Asia Pacific (CSCAP) was established at a meeting in Kuala Lumpur in June 1993.<sup>224</sup> The CSCAP Charter was adopted in December 1993 and was subsequently amended in August 1995.<sup>225</sup> The purpose of setting up the CSCAP was to provide a structured process for regional confidence building and security cooperation among nations and territories in the Asia-Pacific region. Working groups are the primary mechanism for CSCAP activity. Four working groups were established in 1993–94. These were concerned with (1) maritime cooperation, (2) the enhancement of security cooperation in the North Pacific/Northeast Asia, (3) confidence- and security-building measures, and (4) cooperative and comprehensive security. In December 2004, a restructuring of the CSCAP working groups was undertaken to better reflect changes taking place in the strategic environment in the region. Consequently, the four CSCAP working groups are no longer active. Instead, six study groups were established: (1) Capacity-building for Maritime Security Cooperation in the Asia Pacific, (2) Countering the Proliferation of WMD in the Asia Pacific, (3) Future Prospects for Multilateral Security Frameworks in Northeast Asia, (4) Human Trafficking, (5) Regional Peacekeeping and Peacebuilding, and (6) Enhancing the Effectiveness of the Campaign Against International Terrorism with Specific Reference to the Asia Pacific Region. These study groups were to complete their functions in December 2006. CSCAP held general meetings before 2003 on a regular basis in accordance with its charter. In December 2002, it was decided to change the term “General Meeting” to “General Conference.” The first CSCAP General Conference was held in December 2003, but was referred to as the 4th CSCAP General Conference. The 5th CSCAP General Conference was held in December 2005.

A number of non-binding documents had previously been adopted at different CSCAP working group meetings to address the issues concerning maritime safety and shipping security before the September 11th terrorist attacks in the United States.<sup>226</sup> CSCAP Memorandum No. 1, for example, encourages CSCAP members to undertake “[c]ooperative efforts to ensure the security of sea-lanes and sea lines of communication, with the enhancement of capabilities and maritime surveillance, safety, and search rescue operations.”<sup>227</sup> Paragraph 3 of CSCAP Memorandum No. 4 encourages member nations to become parties to the 1982 LOS Convention and other relevant international instruments, recognizing that this will



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contribute to the strengthening of peace, security, cooperation, sustainable development and friendly relations in the Asia-Pacific region. Paragraph 15 of the same Memorandum encourages CSCAP member nations to consult with regard to the ratification, implementation and participation in relevant international conventions and instruments concerning maritime safety. CSCAP Memorandum No. 5 urges member nations to adopt measures that would promote law and order at sea and reduce the incidence of maritime crime, which includes piracy and maritime terrorism.

Since the September 11th terrorist attacks, CSCAP Memorandums No. 6 and No. 7 were adopted in December 2002 and July 2003 respectively,<sup>228</sup> and a "Report on International Terrorism" was issued in March 2002 after the CSCAP Study Group Meeting held in Kuala Lumpur, Malaysia in February 2002. CSCAP Memorandum No. 7 recognizes the importance of the concept of human security and encourages CSCAP member nations to, *inter alia*, endorse and implement relevant UN conventions and protocols, and supporting regional agreements, against terrorism and transnational crimes. The Report on International Terrorism identifies the elements of a comprehensive strategy to combat terrorism in the Asia-Pacific region. It urges CSCAP working groups to coordinate their research agendas in order to advance collective efforts in combating international terrorism. CSCAP member nations are encouraged to ratify the various UN conventions in relation to transnational crimes and related issues, adopt the UN resolution on terrorism and implement international and regional resolutions on transnational crimes and terrorism. In addition, it is stated in the report that the CSCAP Working Group on Maritime Cooperation will continue to examine the following issues: (1) the vulnerability of naval and commercial shipping, off-shore platforms, ports and harbors and coastal settlements to terrorist attack; (2) the threat of maritime terrorism generally, including the use of ships as vehicles for conducting terrorist attacks; and (3) the potential for reducing vulnerabilities and countering the threat from maritime terrorist attacks.<sup>229</sup>

At the 5th CSCAP General Conference, emerging security challenges in the Asia-Pacific region were widely discussed, which included terrorism, human trafficking, the development of WMD, maritime security threats, natural disasters and the recent threat of infectious diseases in the region. Maritime security is one of the seven topics chosen to be discussed at the conference. In addition, one of the special speeches delivered at the meeting was on the Indonesian perspective of security in the Strait of Malacca. During the discussion, there were common concerns among Indonesia and other States which are also stakeholders in the security of the Strait of Malacca, which included the safety of navigation, the protection of the marine environment, the need to cooperate on search and rescue, contingency



plans against pollution, elimination of piracy and armed robberies, and preventing maritime terrorism. Based on experience over the last three decades, it was the Indonesian view that

- the problems of the Straits of Malacca and Singapore could be solved through practical/technical mechanisms and cooperation;
- cost and burden sharing in promoting safety and security of navigation are possible with the cooperation of Japan, and are increasingly necessary and essential;
- user States should voluntarily cooperate with the coastal nations to promote the safety of navigation and to protect the marine environment in the straits, as well as in law enforcement activities;
- what is needed now is a more authoritative and permanent institution to follow up on previous measures; and
- while cooperation and assistance from user States are needed and required under the 1982 LOS Convention, there are certain situations with which Indonesia would not be comfortable, such as the stationing or hiring of foreign navies or marines, arming commercial vessels with offensive weapons, and joint patrols of foreign navies in the straits.<sup>230</sup>

During discussion after the speech, the debate about the relationship between piracy and terrorism was raised. There was also a discussion on sovereignty, especially linking issues such as the resistance towards foreign navies, and also relations with user States.<sup>231</sup>

#### **APEC**

In October 2001, APEC leaders meeting in Shanghai signed a statement on counterterrorism in which they pledged to cooperate fully, through close communication and cooperation among economic policy and financial authorities, to ensure that international terrorism does not disrupt economies and markets.<sup>232</sup> In October 2002, APEC leaders in Los Cabos, Mexico issued a Statement on Recent Acts of Terrorism in APEC Members Economies, in which they condemned terrorist acts in the APEC region, including those that occurred in Bali, in the Philippines and in Moscow earlier that month. They also encouraged joint efforts of APEC economies in mitigating the adverse impact of terrorist attacks in the affected economies and called for strengthened international cooperation to support efforts to eliminate terrorism and restore confidence in the region.<sup>233</sup>

In the Statement on Fighting Terrorism and Promoting Growth, adopted on October 26, 2002, APEC leaders declared their intention to work together to secure

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the flow of goods and people through measures to, *inter alia*, promote ship and port security plans, install automatic identification systems on certain ships, and enhance cooperation on fighting piracy in the region between APEC fora and organizations such as the International Maritime Bureau Piracy Reporting Center and the IMO. The Secure Trade in the APEC Region (STAR) program aims to increase container and port security and to develop mechanisms to track shipments more effectively throughout the supply chain. In addition, APEC countries are asked to ratify the International Convention for the Suppression of the Financing of Terrorism, and to implement quickly and decisively all measures needed to prevent terrorists and their supporters from accessing the international financial system, as called for in UN Security Council Resolutions 1373 and 1390.<sup>234</sup> At the APEC STAR III Conference,<sup>235</sup> held in Incheon, Korea, February 25–26, 2005, Maritime Security Panel 3 discussions explored possible means of cooperation among APEC economies and relevant international organizations in protecting key APEC sea lanes such as the straits of Malacca and Singapore from terrorist attacks and acts of piracy, and provided suggestions in relation to trade implications from an APEC-specific perspective. It was concluded that

- APEC should provide proactive law enforcement support in the search for a long-term solution to deal with maritime security,
- various levels of cooperation are required,
- APEC economies should endeavor to share information and intelligence, and
- an “Assistance Fund” that brings all stakeholders together would be helpful.<sup>236</sup>

#### **The Western Pacific Naval Symposium and the Five Power Defence Arrangement**

The basic structure of the Western Pacific Naval Symposium (WPNS)<sup>237</sup> and the Five Power Defence Arrangement (FPDA),<sup>238</sup> with their traditional focus on military security, precluded dealing with non-conventional security threats, such as piracy and maritime terrorism. However, in response to the changing regional maritime security environment, both WPNS and FPDA felt the need to reconsider the focus of some of their activities. In June 2004, Malaysia’s deputy prime minister Najib Razak stated that for the FPDA to stay relevant, it has to be “reconfigured” to deal with new threats in the form of terrorism. Australian defence minister Robert Hill also agreed that the FPDA should extend the scope of its activities to include counterterrorism training.<sup>239</sup> At the 3rd Shangri-La Dialogue, held in Singapore in June 2004, the need to expand beyond traditional territorial threats to deal with



non-conventional security threats such as maritime terrorism was recognized. It was believed that maritime security exercises could soon be commonplace among the FPDA armed forces.<sup>240</sup> As a result, in September 2005 the five powers held a joint naval exercise in the waters off Malaysia and Singapore that was designed to tackle terrorism rather than wage conventional war. The exercise reflected the growing concerns in Southeast Asia and, in particular, the Strait of Malacca over the problem of piracy and terrorist attacks.<sup>241</sup> In March 2006 it was proposed that Australia, Britain and New Zealand, the three non-littoral member States of the FPDA, be invited to join the “Eyes in the Sky” program as long as the sovereignty of the littoral States of the Malacca strait is respected.<sup>242</sup>

The WPNS is also slowly adapting to the new maritime security environment in the Asia-Pacific region, in particular dealing with the threat of piracy, sea robbery and maritime terrorist attack. To adjust its focus of activities, the WPNS may need to consider how the maritime security environment is changing and how to engage with coast guards so that regional maritime security issues can be effectively addressed.<sup>243</sup> More importantly, the WPNS might be selected by the US Pacific Command as an alternative regional forum to discuss maritime security issues.<sup>244</sup> Possible adjustments were to be addressed by the WPNS in WPNS Workshop 2006 and in the 10th WPNS to be held in Hawaii June 25–29 and October 29 to November 2, 2006, respectively.

#### *Positive Results from Littoral States’ Responses to the US-Proposed RMSI*

Within such a short period of time, about three years since May 2004 until today, security in the Strait of Malacca has been improved significantly mainly because of the cooperative efforts undertaken by the littoral States in response to the US-proposed RMSI and the likelihood of American unilateral deployment of its forces to help patrol the strait, and also in response to the decision by the British-based Joint War Committee of Lloyd’s Market Association to put the strait on its list of war-risk areas in June 2005. According to the figures released by the IMB in its 2005 Annual Report on Piracy Against Ships, the number of pirate attacks in the Malacca strait dropped from thirty-eight in 2004 to only twelve attacks in 2005.<sup>245</sup> There were no reported pirate attacks in the Strait of Malacca from January 1 to March 31, 2006, compared with eight in 2004 and four in 2005.<sup>246</sup> “Action by law enforcement agencies, notably in Indonesia and the Malacca strait, has continued to be effective” and “Indonesia in particular, has increased its efforts to defeat piracy by way of a show of force in known (pirate) hotspots,” said the IMB in April 2006.<sup>247</sup>

In addition to the *Malsindo* joint sea patrols and the “Eyes in the Sky” joint air patrols, launched by Indonesia, Malaysia and Singapore in July 2004 and in September

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2005, respectively, a number of domestic anti-piracy and anti-terrorism measures and bilateral cooperative programs have also been developed to safeguard the Strait of Malacca. New national organizations or units such as Malaysia's Maritime Enforcement Agency (MMEA) and Singapore's Accompanying Sea Security Team (ASSeT) were established to be responsible for maritime security matters. The ReCAAP Information Network System was launched in April 2006 and the ReCAAP Information Sharing Centre was to be established after the entrance into force of the ReCAAP Agreement. Moreover, bilateral cooperation between the littoral States and user States, in particular, the United States, Japan and India, has been strengthened to help improve maritime security in the Strait of Malacca and in Southeast Asia. The littoral States, especially Indonesia, have received the offer by user States of technical aids, patrol training and equipment. It is expected that the littoral States will receive more financial and technical assistance from the user States, including China and South Korea in the future. At the same time, it has been reiterated that the sovereignty of the littoral States will be respected. Regional and international concerns over safety and security in the Strait of Malacca will continue to serve as an important external policy factor in the process of enhancing security in the strait and in the region. Continued discussions on the issue of enhancing maritime security in the Strait of Malacca under the IMO framework and in the existing regional security organizations, such as ASEAN, ARF, CSCAP, APEC, FPDA, WPNS and the Shangri-La Dialogue, are anticipated.

#### ***Challenges Ahead for the Management of Security in the Malacca Strait***

Notwithstanding the many positive developments in relation to the management of security in the Strait of Malacca since June 2004, there are challenges lying ahead for both littoral and user States. One of the challenges is to petition the Joint War Committee to remove the Strait of Malacca from its list of war-risk areas. The shipping industries of the three littoral States of the strait have been asking the Committee to change its risk assessment, but without avail. Unless the littoral States are able to prove the effectiveness of their coordinated patrolling programs, it is likely that the strait will remain on the list.

The effectiveness of the tripartite coordinated air and sea patrolling programs agreed to by the three littoral States has also been questioned. A Singaporean maritime security analyst listed three limitations to the effectiveness of the cooperative programs: (1) the nations view independence and sovereignty very strongly and therefore generally are reluctant to agree to participate more actively in cooperative activities; (2) there is a gap between the nations with regard to law enforcement capacities; and (3) there exists political suspicion among them, in addition to the



lack of political frameworks that could facilitate more cooperative maritime security efforts. Ironing out their differences over the seriousness of the maritime security threats and the possible association between piracy and maritime terrorism in the Strait of Malacca and in Southeast Asia will be a challenge to the littoral States.

It has been pointed out that the law enforcement capacities of Malaysia and Singapore are good, but Indonesia's difficult resource problems need to be resolved if piracy and possible maritime terrorist attacks are to be dealt with effectively. It remains to be seen to what extent and how soon these problems can be resolved, either by significant investment provided by the littoral States themselves or by financial and technical aid from user States, such as the United States, Japan and India now, as well as Australia, China and South Korea in the future. The development of a closer strategic and military cooperation between the littoral States and foreign powers, in particular, the United States, could help justify the decision to offer more assistance to help the littoral States enhance their maritime security capabilities. The United States and Indonesia have resumed military ties, but progress towards greater accountability and complete military reform in Indonesia remains to be seen. The governments of Indonesia and Malaysia could reconsider their position on the PSI, such as by partially or selectively participating in the PSI activities. A positive development in this regard is the announcement made by the US government that it "stand[s] ready to help Indonesia and Malaysia, Singapore and Thailand to secure the Straits of Malacca."<sup>248</sup> In addition, the signing of the Strategic Framework Agreement between the United States and Singapore in July 2005 could be welcomed by the other two littoral States as a positive development helpful to the enhancement of maritime security in the Strait of Malacca in particular and in Southeast Asia in general.

Another challenge to the effective management of security in the Strait of Malacca is how to find an acceptable approach that can compromise between the littoral States' sovereign concerns and the user States' demand for a more direct involvement in security matters in the strait. This requires that both sides reach agreement on establishing a burden-sharing mechanism or a multilateral/international cooperative security mechanism in the Strait of Malacca area. To help establish a burden-sharing mechanism, there is a need to amend Article 43 of the 1982 LOS Convention for the purpose of expanding the scope of burden sharing to include those costs associated with the management of security in the Strait of Malacca. The early establishment of a regional marine training center or a piracy/terrorism information sharing center would be seen as another important test of the political will of the littoral States and the concerned nations in the region to enhance security in the Strait of Malacca and in Southeast Asia.

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Finally, it would be important for the littoral States to become contracting parties to the IMO's 1988 SUA Convention, the 2005 Protocol to the 1988 SUA Convention, and the 2004 ReCAAP agreement. At present, among the littoral States of the Malacca strait, only Singapore has ratified the 1988 SUA Convention and the ReCAAP agreement. It remains a challenge to have both Indonesia and Malaysia ratify the aforementioned maritime security-related international treaties.

### ***Conclusion***

Under the pressure spreading outwards from the United States, in particular through the proposal of RMSI and the consideration of deploying forces to deal with potential maritime security threats in the Strait of Malacca and Southeast Asia, the three littoral States—Indonesia, Malaysia and Singapore—were forced to adopt additional domestic anti-piracy and anti-terrorism measures and to develop tripartite coordinated sea and air patrol programs to improve security in the strait. New governmental agencies or units, such as the Malaysian Maritime Enforcement Agency, the Singaporean Accompanying Sea Security Team, and the Indonesian Maritime Policy Unit, have been formed to be responsible for managing security in the strait. More patrol boats have been acquired and new monitoring systems have been set up to help strengthen the littoral States' control over traffic in the strait. Bilateral cooperative programs have also been developed between the littoral States themselves and between the littoral States and user States, such as the United States, Japan and India, and perhaps in the future with China, South Korea and other nations, to keep the region's important waterways safe.

A number of important political statements, such as the Batam Agreement, the Jakarta Agreement of 2005 and the first ASEAN Defence Ministers' Statement of May 2006 have been adopted or issued, in which both littoral and user States are urged to take more cooperative actions to help enhance security in the Malacca strait. It seems that a more effective, collaborative approach to deal with the maritime security matters in the Malacca strait and in Southeast Asia has been developed since the first half of 2004. It is believed that this development will benefit the international maritime community and, in particular, the shipping industries that rely heavily on safe navigation of the Strait of Malacca. However, piracy and maritime terrorism and other transnational crimes in the strait and in Southeast Asia are likely to remain a major maritime security concern for governments and shipping industries for some years to come.

To deal effectively with maritime security threats in the Strait of Malacca, a number of challenges need to be overcome. These include the effectiveness of the implementation of the agreed tripartite coordinated sea and air patrols programs,



and the littoral States' ratification of the maritime security-related international conventions, in particular, the 2004 ReCAAP agreement, the 1988 SUA Convention and the 2005 protocol to the 1988 SUA Convention. There is also a need to establish a burden-sharing agreement that is acceptable to both the littoral and user States. But the challenge to be overcome as soon as possible is to have Lloyd's Joint War Committee remove the Strait of Malacca from its list of war-risk areas.

### Notes

1. Other maritime security programs and initiatives include the Advance Electronic Cargo Information (24-Hour Rule), Container Security Initiative (CSI), Megaports Initiative, Transshipment Country Export Control Initiative (TECI), Proliferation Security Initiative (PSI), Maritime Transportation Security Act (MTSA), the International Ship and Port Facility Security (ISPS) Code, International Port Security Program (IPSP), Customs-Trade Partnership Against Terrorism (C-TPAT), US Coast Guard International Training Programs, Smart Box Initiative, 96-Hour Advance Notice of Arrival, Advance Passenger Information System Rule (APIS), the National Plan to Achieve Maritime Domain Awareness, the Global Maritime Intelligence Integration Plan, the Maritime Operation Threat Response Plan, the International Outreach and Coordination Strategy, the Maritime Infrastructure Recovery Plan, Maritime Transportation System Security Recommendations, the Maritime Commerce Security Plan and the Domestic Outreach Plan. See US Department of State, International Outreach and Coordination Strategy for the National Strategy for Maritime Security (2005), available at [http://www.dhs.gov/xlibrary/assets/HSPD\\_IOCPlan.pdf](http://www.dhs.gov/xlibrary/assets/HSPD_IOCPlan.pdf).
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3. International Outreach and Coordination Strategy for the National Strategy for Maritime Security, *supra* note 1, app. B, at 4.
4. Strait of Malacca, Wikipedia, the Free Encyclopedia, [http://en.wikipedia.org/wiki/Strait\\_of\\_Malacca](http://en.wikipedia.org/wiki/Strait_of_Malacca) (last visited Mar. 27, 2007); C. S. Kuppuswamy, *Straits of Malacca: Security Implications*, Paper No. 1033, South Asia Analysis Group (SAAG), June 18, 2004, <http://www.saag.org/papers11/paper1033.html>.
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7. Henry J. Kenny, *China and the Competition for Oil and Gas in Asia*, ASIA-PACIFIC REVIEW, Nov. 2004, at 41.
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10. *Malaysia to Boost Malacca Straits Security with 24-Hour Radar System—Report*, AFX INTERNATIONAL FOCUS, Mar. 18, 2005, [http://www.mpsint.com/newsletter/archives/\\_2005/03182005.html#0003](http://www.mpsint.com/newsletter/archives/_2005/03182005.html#0003).
11. *Thailand to Join Malacca Strait Security System*, THAI PRESS REPORTS, Apr. 22, 2006, <http://www.thaivisa.com/forum/index.php?showtopic=66874&mode=threaded>.
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13. Ilan Berman, *The Bush Strategy at War*, NATIONAL INTEREST, Winter 2003/2004, at 51.
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17. See Ali M. Koknar, *Terror on the High Seas*, SECURITY MANAGEMENT ONLINE, June 2004, <http://www.securitymanagement.com/library/001617.html>; *The Sinister Strait—The Next Target for Terrorism and US Intervention*, JANE’S FOREIGN REPORT, July 1, 2004, [http://www.janes.com/security/international\\_security/news/fr/fr040630\\_1\\_n.shtml](http://www.janes.com/security/international_security/news/fr/fr040630_1_n.shtml); Briefings, *Malaysia’s Terrorism Dilemma*, JANE’S INTELLIGENCE DIGEST, June 18, 2004, <http://jid.janes.com/docs/jid/search.jsp> (then search for “Malaysia’s Terrorism Dilemma”); Catherine Zara Raymond, *How Real is the Threat From Maritime Terrorism?* THE POWER AND INTEREST NEWS REPORT (PINR), Dec. 12, 2005, [http://www.pinr.com/report.php?ac=view\\_report&report\\_id=410&language\\_id=1](http://www.pinr.com/report.php?ac=view_report&report_id=410&language_id=1); *Next for Terrorists: Seaborne Attacks*, WORLDNETDAILY.COM, Mar. 18, 2005, [http://www.worldnetdaily.com/news/article.asp?ARTICLE\\_ID=43358](http://www.worldnetdaily.com/news/article.asp?ARTICLE_ID=43358).
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28. *Id.*, Q&A Session, available at <http://www.pacom.mil/speeches/sst2004/040331hasc-qa.shtml>.
29. *Id.*
30. *Id.*
31. Veeramalla Anjaiah, *No Plan to Deploy Troops to Malacca Strait: U.S.*, JAKARTA POST, Apr. 20, 2004, at 2.
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35. Admiral Thomas B. Fargo, US Navy, Commander, US Pacific Command, Remarks at US Pacific Command, Military Operations and Law Conference, Victoria, British Columbia, Canada, May 3, 2004, available at <http://www.pacom.mil/speeches/sst2004/040503milops.shtml>.
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37. Robert Wohlschlegel, Curtis W. Turner & Kent Butts, *Maritime Threats Workshop*, United States Army Pacific's: Defense Environmental and International Cooperation (DEIC) Workshop, Center for Strategic Leadership, US Army War College, Issue Paper, Vol. 09-04, Oct. 2004, at 2, available at <http://www.carlisle.army.mil/usacsl/Publications/IP09-04.pdf>.
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39. Information on the RMSI and other RMSI-relevant documents were removed from the Pacific Command's website (<http://www.pacom.mil/about/pacom.shtml>). My last visit was on October 16, 2005.
40. Commander, United States Pacific Command, Strategy for Regional Maritime Security, Nov. 2004, at 3.
41. *Id.*
42. *Id.* at 5–6.
43. *Id.* at 6–7.
44. *Id.* at 11–13.
45. NSPD-41/HSPD-13, *supra* note 14, at 2.
46. *Id.* at 2–3.
47. Available at <http://www.pacom.mil/rmsi> (last visited Oct. 16, 2005).
48. NSPD-41/HSPD-13, *supra* note 14, at 4.
49. *Id.* at 5–9.
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51. The National Strategy for Maritime Security, *supra* note 2.
52. *Id.* at 4.
53. For details of these strategic actions, see *id.* at 13–24.
54. *Id.* at 15.

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55. *Id.*

56. This plan lays the foundation for an effective understanding of anything associated with the maritime domain that could impact the security, safety, economy or environment of the United States, and of identifying threats as early and as distant from our shores as possible. Text available at [http://www.dhs.gov/xlibrary/assets/HSPD\\_MDAPlan.pdf](http://www.dhs.gov/xlibrary/assets/HSPD_MDAPlan.pdf).

57. This plan uses existing capabilities to integrate all available intelligence regarding potential threats to US interests in the maritime domain.

58. This plan facilitates a coordinated US government response to threats against the United States and its interests in the maritime domain by establishing roles and responsibilities that enable the government to respond quickly and decisively.

59. This strategy provides a framework to coordinate all maritime security initiatives undertaken with foreign governments and international organizations, and solicits international support for enhanced maritime security. Text available at <http://www.state.gov/organization/64251.pdf>.

60. This plan recommends procedures and standards for the recovery of the maritime infrastructure following an attack or similar disruption. Text available at [http://www.dhs.gov/xlibrary/assets/HSPD\\_MIRPPlan.pdf](http://www.dhs.gov/xlibrary/assets/HSPD_MIRPPlan.pdf).

61. These recommendations provide strategic context to holistically improve the security of the Marine Transportation System. Text available at [http://www.dhs.gov/xlibrary/assets/HSPD\\_MTSSPlan.pdf](http://www.dhs.gov/xlibrary/assets/HSPD_MTSSPlan.pdf).

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- when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organization to do or to abstain from any act
  - uses against or on a ship or discharges from a ship any explosive, radioactive material or BCN (biological, chemical, nuclear) weapon in a manner that causes or is likely to cause death or serious injury or damage;
  - discharges, from a ship, oil, liquefied natural gas, or other hazardous or noxious substance, in such quantity or concentration that causes or is likely to cause death or serious injury or damage;
  - uses a ship in a manner that causes death or serious injury or damage;
- transports on board a ship any explosive or radioactive material, knowing that it is intended to be used to cause, or in a threat to cause, death or serious injury or damage for the purpose of intimidating a population or compelling a government or an international organization to do or to abstain from doing any act;
- transports on board a ship any BCN weapon, knowing it to be a BCN weapon;



- transports on board a ship any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under safeguards pursuant to an IAEA comprehensive safeguards agreement; and
- transports on board a ship any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a BCN weapon, with the intention that it will be used for such purpose.

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193. Ministerial Statement on Security in International Maritime Transport Sector para. 10, adopted at the Ministerial Conference on International Transport Security, Tokyo, Japan, Jan. 12–13, 2006, [http://www.mlit.go.jp/sogoseisaku/kokusai\\_e/minister/maritime\\_e.pdf](http://www.mlit.go.jp/sogoseisaku/kokusai_e/minister/maritime_e.pdf).

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195. The SOLAS regulation on LRIT establishes a multilateral agreement for sharing LRIT information for security and search and rescue purposes, among SOLAS contracting governments, in order to meet the maritime security needs and other concerns of such governments. This new regulation does not create or affirm any new rights of States over ships beyond those existing in international law, particularly, the 1982 LOS Convention, nor does it alter or affect the rights, jurisdiction, duties and obligations of States in connection with that convention. The LRIT information that ships will be required to transmit includes the ship's identity, location and date and time of their position. There will be no interface between LRIT and AIS. One of the more important distinctions between LRIT and AIS, apart from the obvious one of range, is that, whereas AIS is a broadcast system, data derived through LRIT will be available only to the recipients who are entitled to receive such information, and safeguards concerning the confidentiality of those data have been built into the regulatory provisions. SOLAS contracting governments will be entitled to receive information about ships navigating within a distance not exceeding 1000 nautical miles off their coast. Additional information on the new regulation is available at <http://www.imo.org> (then follow "Conventions," then "SOLAS," then "Amendments year by year," then "May 2006 amendments—LRIT" hyperlinks).

196. Moritaka Hayashi, *Introductory Note to the Regional Agreement on Combating Piracy and Armed Robbery Against Ships in Asia*, 44 INTERNATIONAL LEGAL MATERIALS 826 (2005).

197. Regional Agreement on Combating Piracy and Armed Robbery Against Ships in Asia, art. 18, 44 INTERNATIONAL LEGAL MATERIALS 829, 834, available at [http://www.mofa.go.jp/mofaj/gaiko/kaiyo/pdfs/kyotei\\_s.pdf](http://www.mofa.go.jp/mofaj/gaiko/kaiyo/pdfs/kyotei_s.pdf).

198. They are Brunei, Cambodia, India, Japan, Laos, Myanmar, the Philippines, Singapore, South Korea, Sri Lanka, Thailand and Vietnam.

199. See Rebecca Chew, *ReCAAP Off to a Good Start*, NAUTILUS, 3d Qtr., 2006, at 4, available at <http://www.mpa.gov.sg/infocentre/pdfs/nl06-03.pdf>.

200. Batam Joint Statement, *supra* note 181, para. 10.

201. The ten members of ASEAN are Brunei, Cambodia, Indonesia, Laos, Malaysia, Myanmar, the Philippines, Singapore, Thailand and Vietnam.

202. ARF groups twenty-five nations, comprising the ten members of ASEAN and Australia, Canada, China, East Timor, the European Union, India, Japan, Mongolia, New Zealand, North Korea, Pakistan, Papua New Guinea, Russia, South Korea and the United States.

203. 2001 ASEAN Declaration on Joint Action to Counter Terrorism, <http://www.dfa.gov.ph/about/offices/7thasean.htm>.

204. The text of the communiqué is available at <http://www.aseansec.org/5961.htm>.

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205. The texts of the ASEAN-US Joint Declaration for Cooperation to Combat International Terrorism and of the Joint Declaration on Cooperation to Combat Terrorism between the European Union and ASEAN are available at <http://www.aseansec.org/10574.htm> and <http://www.aseansec.org/14031.htm>, respectively.

206. See ASEAN Marine Related Activities, 2005/MRCWG/016, Agenda Item: 13, information submitted by ASEAN to APEC Marine Resource Conservation Working Group meeting, Phuket, Thailand, May 17–19, 2005.

207. Lianita Prawindarti, *The First ASEAN Defence Ministers Meeting: An Early Test for the ASEAN Security Community?*, IDSS COMMENTARIES, May 16, 2006, <http://www.rsis.edu.sg/publications/Perspective/IDSS0342006.pdf>.

208. The full text of the Statement is available at <http://www.aseansec.org/14837.htm>.

209. *Id.*, para. 1 (a).

210. *Id.*, para. 1 (c).

211. *Id.*, para. 2.

212. See para. 19, Chairman's Statement, Eleventh Meeting of ASEAN Regional Forum, Jakarta, Indonesia, July 2, 2004, available at <http://www.aseansec.org>.

213. *Id.*, para. 26.

214. See Co-Chair's Report, ASEAN Regional Forum Workshop on Maritime Security, Sep. 22–24, 2004, Kuala Lumpur, Malaysia, para. 9, available at <http://www.aseansec.org>.

215. *Id.*, paras. 11 & 15.

216. *Id.*, para. 25.

217. *Id.*, para. 33.

218. *Singapore Proposes Maritime Security Exercises for Asian Security Forum*, AGENCE FRANCE-PRESSE, Mar. 2, 2005.

219. Co-Chairs' Report, ARF CBM on Regional Cooperation in Maritime Security, Mar. 2–4, 2005, Singapore, para. 19, available at <http://www.aseansec.org>.

220. *Id.*, para. 20.

221. Chairman's Statement, Twelfth Meeting of the ASEAN Regional Forum (ARF), Vientiane, July 29, 2005, available at <http://www.aseansec.org>.

222. *Id.*, para. 37.

223. *Increase Asia-Pacific Cooperation for Maritime Security: Defence Minister*, ZEE NEWS, June 3, 2006, available at <http://www.iiss.org/whats-new/iiss-in-the-press/press-coverage-2006/june-2006/increase-asia-pacific-cooperation>.

224. See Kuala Lumpur Statement 8 June 1993: Establishment of the Council for Security Cooperation in the Asia Pacific, <http://www.cscap.org/kl.htm>.

225. The CSCAP Charter and revised CSCAP Charter are available at <http://www.cscap.org/charter.htm>.

226. CSCAP Memorandum No. 1: The Security of the Asia Pacific Region (Apr. 1994); CSCAP Memorandum No. 2: Asia Pacific Confidence and Security Building Measures; CSCAP Memorandum No. 3: The Concepts of Comprehensive Security and Cooperative Security; CSCAP Memorandum No. 4: Guidelines for Regional Maritime Cooperation (Dec. 1997); CSCAP Memorandum No. 5: Cooperation for Law and Order at Sea (Feb. 2001), all available at <http://www.cscap.org/publications.htm>.

227. CSCAP Memorandum No. 1, para. C (4), *supra* note 226.

228. CSCAP Memorandum No. 6: The Practice of the Law of the Sea in the Asia Pacific (Dec. 2002) and CSCAP Memorandum No. 7: The Relationship between Terrorism and Transnational Crime (July 2003). CSCAP Memorandum No. 6 is available at <http://www.cscap.org/publications.htm>. A copy of CSCAP Memorandum No. 7 is on file with author.



229. *Terrorism in Southeast Asia: Perspectives from the Region*, A CSCAP Roundtable Discussion Featuring Kumar Ramakrishna, Dino Patti Djalal, Carolina Hernandez, and Mohamed Jawhar Hassan, ISSUES & INSIGHTS, PACIFIC FORUM CSIS (Feb. 2003), Appendix D (Report on International Terrorism CSCAP Study Group Meeting, Kuala Lumpur, Mar. 25–26, 2003), [http://www.csis.org/media/csis/pubs/issuesinsights\\_v03n02.pdf](http://www.csis.org/media/csis/pubs/issuesinsights_v03n02.pdf).
230. *Addressing Emerging Security Challenges in the Asia Pacific Region*, Report, Council for Security Cooperation in the Asia Pacific, 5th General Conference, Jakarta, Dec. 6–7, 2005 at 17, <http://www.cscap.ca/pdf/2005%20General%20Conference%20Report.pdf>.
231. *Id.*
232. APEC Leaders Statement on Counter-Terrorism, Shanghai, China, Oct. 21, 2001, <http://www.infojapan.org/policy/economy/apec/2001/leader.html>.
233. APEC Leaders' Statement on Recent Acts of Terrorism in APEC Member Economies, Los Cabos, Mexico, Oct. 26, 2002, [http://www.mofa.go.jp/policy/economy/apec/2002/state\\_terro2.html](http://www.mofa.go.jp/policy/economy/apec/2002/state_terro2.html).
234. APEC Leaders' Statement on Fighting Terrorism and Promoting Growth, Oct. 26, 2002, <http://www.sccp.org/sccplibrary/otherdocs/LeadersStmntFightTerrorNGrowth.pdf>.
235. The First APEC STAR Conference was held in Bangkok, Thailand in 2003; the Second STAR Conference in Viña del Mar, Chile, 2004; the Third STAR Conference in Incheon, Korea, 2005; and the Fourth STAR Conference in Hanoi, Vietnam in February 2006.
236. Chairman's Summary Report and Recommendations of the APEC STAR III Conference, Incheon, Korea, Feb. 25–26, 2005, [http://www.apec.org/apec/documents\\_reports/counter\\_terrorism\\_task\\_force/2005.html#STAR](http://www.apec.org/apec/documents_reports/counter_terrorism_task_force/2005.html#STAR) (then follow "STAR Conference" and "Chairman's Summary Report and Recommendations of the APEC STAR III Conference" hyperlinks).
237. The origin of WPNS lies in the biennial International Seapower Symposium conducted by the United States Navy. It changed in 1988 when the Australian chief of naval staff agreed to host the first WPNS in Sydney. Members of the WPNS include Australia, Brunei, Cambodia, China, France, Indonesia, Japan, Malaysia, New Zealand, Papua New Guinea, the Philippines, Russia, Singapore, South Korea, Thailand, Tonga, the United States and Vietnam. Four observers are Bangladesh, Canada, Chile and India.
238. The FPDA was established in 1971 to ensure the defense of Malaysia and Singapore. Participating nations are Australia, Britain, Malaysia, New Zealand and Singapore.
239. Azrin Asmani, *FPDA: Malaysia Open to Review of its Scope*, STRAITS TIMES (Singapore), June 7, 2004.
240. Dominique Loh, *FPDA to Focus on Non-Conventional Threats to Regional Maritime Security*, CHANNEL NEWSASIA, June 7, 2004, available at [http://app-stg.nsc.gov.sg/data/2004\\_04\\_7FPDA.doc](http://app-stg.nsc.gov.sg/data/2004_04_7FPDA.doc).
241. *Maritime Concerns Drive Southeast Asia War Games*, REUTERS, Sept. 5, 2005.
242. *Malaysia Says Australia, UK, New Zealand May Play Role in Malacca Strait Security*, AFX INTERNATIONAL FOCUS, Mar. 27, 2006.
243. See *The Western Pacific Naval Symposium*, SEMAPHORE, Newsletter of the Sea Power Centre—Australia, Issue 14, July 2005, available at [http://www.navy.gov.au/spc/semaphore/2006\\_14.pdf](http://www.navy.gov.au/spc/semaphore/2006_14.pdf).
244. Evelyn Goh, *Singapore and the United States: Cooperation on Transnational Security Threats*, paper presented for 26th Annual Pacific Symposium, Honolulu, Hawaii, June 8–10, 2005, at 7, available at <http://www.ndu.edu/inss/symposia/Pacific2005/goh.pdf>.
245. Frank Kennedy, *Piracy Declines Sharply in Malacca Straits*, GULFNEWS.COM, Feb. 6, 2006, <http://archive.gulfnews.com/articles/06/02/06/10016604.html>.

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246. Based on the April 2006 IMB's Piracy and Armed Robbery Against Ships report for the period January 1 to March 31, 2006. See Katy Glassborow, *IMB Report Charts Piracy's Shifting Trends*, JANES.COM, May 4, 2006, <http://www2.janes.com/index.html> (search by article title then follow hyperlink).

247. En-Lai Yoh, *Pirate Attacks Drop to Zero in Malacca Strait But Global Attacks Rise, Says Watchdog*, ASSOCIATED PRESS WORLDSTREAM, May 3, 2006.

248. See Paul X. Rutz, *Rice: U.S., Indonesia Must Continue Work on 'True Partnership'*, AMERICAN FORCES PRESS SERVICE, Mar. 16, 2006, <http://www.defenselink.mil/news/newsarticle.aspx?id=15153>.